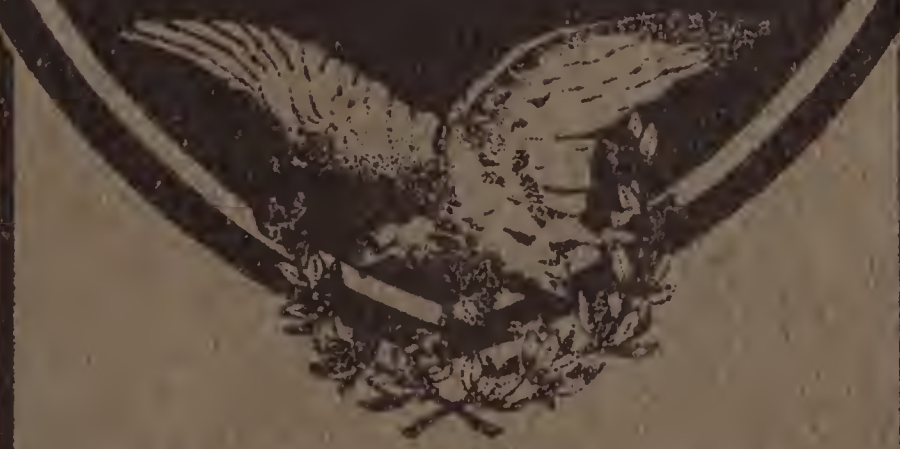
POLITICAL REFORM
- IN -
WISCONSIN



A HISTORICAL REVIEW OF PRIMARY ELECTION, TAXATION AND RAILWAY REGULATION.

BY

E. L. PHILIPP

POLITICAL REFORM IN WISCONSIN

A HISTORICAL REVIEW
OF THE SUBJECTS OF

Primary Election, Taxation and Railway Regulation

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FOREWORD

At no period in the history of our state has there been so much political agitation as has made the last ten years memorable, and at no time, not excepting the stormy years immediately preceding and during the civil war, has so much bitterness been injected into our politics. To the student of history there is something strange and unaccountable in the story of recent political events in Wisconsin. It is an unusual thing to see a community change its public policy, the habits of a lifetime, and its leaders, almost in a breath; it is an unusual thing also to see a state that always has been regarded as one of the most conservative in the union suddenly, as if by the influence of some magic power, transformed into one of the most advanced, impatient, not to say intemperate "reform" states in the entire sisterhood.

While it may be unduly dignifying the change in the political policy effected in Wisconsin at the beginning of the present decade to call it a bloodless revolution, it certainly was more than a mere change of administration, a substitution of one set of state officers for another of the same party. And it came suddenly, almost without warning. Whatever mutterings of discontent previously had been heard had all disappeared. While a peaceful calm rested upon the state following a campaign in which there had been protestations of harmony and good will on all sides; at a time when citizens were looking forward to real progress under the beneficent influences of peace and prosperity, the alarm was suddenly sounded, signal fires were set blazing upon the hill tops, the dogs of war were loosed and the clans were called out in battle array. For what?

The history of the nations of the world records many revolutionary movements in the past, but usually there was a satisfactory and sufficient cause for them. It is found that people are, as a rule, slow to rebel against the constituted authorities without some well defined and clearly understood reason. They may protest against the enforcement of oppressive laws; they may revolt against corruption in public office; they may refuse to be unjustly taxed; or there may be other sins of omission or commission on the part of the public servants or rulers, as the case may be, which have become intolerable and which explain the citizens' determination to have a political house-cleaning for the general public good.

But that was not the case in Wisconsin. The student of history will look in vain in the records of this state for proof of corruption in public office, for evidence of public scandals of any character worthy of consideration. He will find no statutes that were oppressive; he will find no indications of extravagance or waste of public resources by state officials; he will not find statistics to prove that the people were overburdened by taxation for the support of the state

administration, for there had been but one state tax for general purposes for nearly twenty years.

A careful and unprejudiced investigation of the facts of history leads inevitably to the conclusion that there was no public necessity for the political disturbance that accompanied the change of administration in January, 1901. The political issues fought out in this state and which engendered so much bitterness, so much intemperate discussion, so much hatred and malice, did not involve any vital principles of government that must be conserved. The contest was merely a struggle for leadership and political power. The "issues" were the means whereby their inventors hoped to attain their ends. They succeeded.

This assertion is sufficiently justified by the experiences of the state under the laws enacted for the reformation of our statutes during the so-called "progressive" period. Certain laws have been amended and other laws have been replaced by statutes radically differing from the originals. The promises to make changes in the laws have been kept to the letter. But the benefits that were to be derived; the advantages that would, it was promised, follow the enactment of these "progressive" measures as a necessary and logical effect following a given cause, have not materialized.

The publication of the outline of recent historical events contained in the following pages is not designed to revive factional disputes, which were too bitter to be pleasant, or to kindle anew the fires of discord. But it is believed the people of the state are now in a condition of mental repose that will enable them to run over again the data relating to that period without danger to themselves or their neighbors. By now printing the truth about certain legislation, its origin, the means employed to secure its enactment, and the effect of the laws in operation, citizens will be enabled to weigh the results of the contest in which they have engaged and learn for themselves whether the "reform" secured has been worth what it cost.

Did it pay to drive from public life prominent servants who had won distinction for themselves and their state?

Did it pay to embitter neighbor against neighbor, brother against brother, and friend against friend for the sake of enacting the laws we now have that would not have been passed in the ordinary course of events without a fight?

In preparing this historical review it has been the intention to cover the three important subjects of legislation as fully as was practicable in their proper order. The first subject treated is the primary election law. To the end that the progress made prior to the presentation of the bill abolishing all caucuses and conventions may be understood, the evolutionary movement that led up to the enactment of the Milwaukee primary law and the subsequent extension of that law to the entire state has been traced step by step. The

effect of the direct primary law in operation has been analyzed, and the fruitless attempt to strengthen a law that has sorely disappointed its most sincere friends and one that has been repudiated on more than one occasion by its authors and principal champions, are considered.

Following the primary election legislation is a review of the history of taxation legislation which resulted in the creation of the state tax commission, the enactment of important taxation laws and the general reform, so far as was possible in the circumstances, of the taxation system. Great progress has been made in this field of political activity—so much will be shown beyond question. But that progress has not been made on the public platform, at the hustings, or in the columns of the newspapers. The men who are entitled to credit for a greater part of the advance made along tax reform lines are the men who have, with painstaking care, patient effort, deep study and an unselfish devotion to the cause in which they were enlisted, accomplished results. These men have left their marks indelibly on the pages of Wisconsin's history.

The third and last part of the review is devoted to the events which led up to the enactment of laws for the regulation of transportation companies. There is no disposition on the part of the writer of this history to fly to the defense of the transportation companies. This is a history—not an apology or a defense. But there has been so much matter printed about the regulation of corporations; there have been so many extravagant statements concerning public benefits that would be derived from the enactment of laws designed to place the corporations under a more strict supervision by public officers; there have been so many unjust and uncalled for charges laid at the door of public men who did not agree with the radical "progressives" as to the exact form railroad legislation should take; and there have been so many and such extravagant claims of credit supposed to be due for the passage of the laws now on the statute books, it is but just and right to all parties that the facts should be given to the public.

As has been said, this history is not the outgrowth of a desire to revive past disputes. The controversy is ended. The citizens of Wisconsin have now settled down to await the reward of their labors. They have paid the price—will the progressive leaders "deliver the goods?" Have they delivered the goods? If not, why not? There has been time for the primary election law to scatter its blessings over the state: has it done so? There has been ample time for the new taxation system to reduce the taxes of those who were overburdened: have taxes anywhere been reduced? There has been ample time to materialize all or most of the benefits promised as the result of railroad rate regulation by the state: can you find those benefits in your business? These are some of the questions that will be discussed in this review.

PART ONE.

THE EVOLUTION AND REVOLUTION OF THE PRIMARY.

CHAPTER I.

The Direct Primary.

The direct primary principle is advocated by citizens who believe in sticking as close to the pure democratic form of government as is possible. They believe the citizen should never delegate his rights and powers as a voter to another when it is possible for him to perform his duties and exercise his privileges himself. They believe the right to vote for candidates for office necessarily carries with it the right to assist in nominating those candidates; that the first step in the exercise of the elective franchise is as important as the second; that the right to cast the first ballot in making a direct choice at the primary is as sacred as the right to cast the second ballot on election day.

The motives of the men who, during the last thirty years, have publicly advocated primary election reforms in the several states should not be called in question. In the main these progressives, as they like to be called, have been sincere and unselfish in their devotion to a movement believed by them to be designed to purify politics, to improve the personnel of the office holding class, to dethrone the political boss and put his "gang" out of business, and to encourage the better element of the citizenry to actively participate in primaries and elections. Many of the advocates of the movement have been members of that "better element" about which so much has been said and written during the discussions that have attended the progress along reform lines. With certain glaring exceptions, they have been men in whom the outward and visible sign of an inward office hunger was not too painfully conspicuous. They simply wanted to arrange the nominating machinery so that men of their own kind would be encouraged to take an active part in politics.

Years ago it was argued in the public press and periodicals that good people did not attend mass caucuses because they were convinced the results of those meetings always were determined in advance; that the election of delegates to conventions was "fixed up by some job or ring influence." Also, it was asserted that the better element would not attend political caucuses in the evening or

at any hour "at the risk of encountering a crowd, or being hustled or jostled by intoxicated men." That there was foundation in fact for the statements discrediting the mass caucus in large cities does not require argument. Men who know to what extent the hoodlum element carried their excesses at the primaries—and the elections as well—in metropolitan cities and congested districts, will not make excuses for the abuses complained of or attempt to palliate them.

The result was that the complaints, persistently but not too clamorously made at first, had a tendency to prick the law makers and party leaders to activity and tentative experiments in primary reforms were inaugurated. This was a wholesome movement and it did not call for an acrimonious controversy, as politicians as well as private citizens lent their aid to the effort to remove the defects complained of by judiciously treating the cause. As a matter of fact, from the first voluntary changes in the method of conducting caucuses made by party leaders in Wisconsin before any law on the subject had been enacted, down to the time of the violent outbreak of controversy in 1901, there was little if any public interest manifested in the movement. Yet noteworthy progress was made in the betterment of conditions under which the primaries were held.

In California the primary election idea was recognized by law as early as 1866, and in 1872 that recognition was formally incorporated into the codes. Any party or association of electors in any political subdivision of the state was authorized by law to hold a primary election for the nomination of local candidates and the election of delegates to represent them in conventions called for larger districts in which the voters at the primary were entitled to participate. Other states followed in the footsteps of California. Early in the last quarter of the nineteenth century the city of Baltimore regularly elected its municipal officers from candidates nominated by direct vote of the people of that city without the intervention of party conventions. In Baltimore it was reported that the experiment was eminently satisfactory in its results. At a meeting of the Young Men's Democratic club of New York, held in that city in December, 1881, it was asserted of the Baltimore primaries that:

> **"There the primary votes directly for the candidate and the polls are open all day. The result has been the extirpation of the political bosses and an extraordinarily full vote. In 1876, when all the municipal offices were to be filled, 6,200 democrats out of 7,500 registered voted on the nominations at the polls at the primaries. If we could obtain anything approaching to the same proportion of the party vote on nominations of both sides in this city, what a gain it would be!"**

On the other hand, the experiment in California was not so satisfactory. A citizen of San Francisco complains, in a letter to the Nation Magazine of January 28, 1882, that, while the direct vote primary, when held in the rural districts, uniformly elected a

superior class of delegates and nominated good men for office, the result of such elections in the city was that invariably dissensions followed and dissatisfaction was manifested.

Subsequent trials of the primary election plan were made in Georgia, South Carolina, Kentucky, Pennsylvania and other states. In each case, however, the option was given to the party managers to call a primary or to nominate by the old caucus and convention plan. It will be noticed that practically all the early experiments with the plan of nominating candidates by direct vote of the members of the party were made in what may be called one party states, and it was the dominant party that made use of the primary election to nominate its candidates. The minority party in each of the states mentioned had no use for restraints imposed by a primary law. They had no contests for nominations. Their principle trouble was in persuading citizens to accept nominations at their hands to be followed by certain failure of election without any attending glory to take the poison from the sting of defeat or to repay them for the loss of time and the expense incidental to the campaign.

All this time experience, growth, development, were doing their work and prominent men who were known as practical politicians, as well as public spirited private citizens, were becoming more and more interested in a movement to devise a workable plan for regulating the primaries. It may be said all parties and all classes of citizens contributed to some extent toward the solution of the problem, for the democrats in strong democratic states and cities, and republicans in sections where they were in control by reason of their majorities, made changes in the primaries, in many cases without a statutory urge, because they believed the matters pertaining to party government should be left to the control of party members. In other cases, when it was found that the authority of law would aid the movement, statutes were enacted giving to party committees a legal status, defining their duties and making provisions for the government of primaries. The progress made was purely evolutionary in its character and the changes were so natural and logical, following in one another's footsteps in so orderly a manner, they did not cause surprise or excite bitter contentions.

CHAPTER II.

THE KEOGH LAW OF 1891.

The first attempt in Wisconsin to regulate primaries by law was the enactment of what was known as the Keogh law, chapter 439, laws of 1891. This act applied to Milwaukee county only, and was placed in the statute books through the efforts of the Milwaukee delegation in the legislature. No platform pledges had been made to reform the primaries; no campaign had been conducted in the interests of such reform; no public demand made through the newspapers had furnished the inspiration or pointed the way; no meetings were held; no bands were employed to please or torture the public ear, as the case might be; no impassioned orators appealed to the electorate to rise in its might and hurl from places of power and trust the faithless caucus manipulators. The impossibility of continuing to do party business in an orderly manner at mass caucuses in congested municipal wards had become apparent, and the practice already had been partially abandoned. In a quiet way, therefore, the representatives of Milwaukee voters attempted to crystallize into a concrete plan the nebulous ideas that had ruled in the government of the primaries for a number of years.

In country districts, villages and small cities the mass caucus had not fallen altogether into disrepute at that time. Contests there had been, it is true, and some sharp ones at that, but as a rule township and ward officers nominated and delegates elected in rural primaries and the smaller municipalities were acknowledged to fairly represent a majority of the parties holding the caucuses. In some sections of the state, like the mining and lumbering regions of the north, complaint was made that at times caucuses were packed and ruled by mob law, and contests in conventions based on charges of that character were not unknown. But these instances were the exception, not the rule.

On the other hand, party managers and public spirited citizens had learned that the members of the parties in a thickly settled ward could not meet in mass caucuses and by a viva voce vote give expression to their choice with any assurance that the will of the legal majority would prevail. Where lines were sharply drawn between conflicting interests it frequently occurred that one or the other side would gain an unfair advantage by introducing nonresident strikers and heelers, members of other parties, toughs and hoodlums, to the disgust of respectable citizens who would thereby be driven away from the caucuses. In seeking a remedy for this condition, the party leaders and committeemen already had adopted a rule in many instances that party primaries were to be held open for at least an hour and voting was to be done by ballot. This was a step in the right direction, but it did not go far enough.

The Keogh bill, No. 136A, was introduced by that veteran democratic legislator, Edward Keogh of Milwaukee, who consented to allow the influence of his name to be used to the advantage of the measure, the democratic party having secured an overwhelming majority at the memorable "Bennett law election" the previous fall. Mr. Keogh had served one term in the state senate and was, at the time this bill was introduced, representing his district in the assembly for the twelfth time. He made it thirteen before he retired permanently to private life. But while he consented to father the bill, his age and the dignity of his position as the oldest member were such that he left to the younger members of the delegation the real work incidental to the passage of the measure. As it happened, Michael Kruszka, then in his first term, full of hard work, enthusiasm, and a desire to do something worth while, became the dry nurse of the measure.

The bill was first referred to the judiciary committee, made up of six democrats and three republicans. The democrats were John Winans of Rock county, chairman; James D. Watson, Fond du Lac; Joshua E. Dodge, Racine; Neal Brown, Marathon; Conrad Krez and H. J. Desmond, Milwaukee. The republicans were Orrin T. Williams, Milwaukee; L. H. Mead, Washburn, Charles F. Osborn, Lafayette and Green.

This committee failed to discover any constitutional obstacles to the passage of the bill but declined to assume responsibility for it and asked that it be referred to the Milwaukee delegation, which was done. Milwaukee was represented that year by the following members of the lower house:

First district, Humphrey J. Desmond, D.
Second district, William J. Friebrantz, R.
Third district, Edward Keogh, D.
Fourth district, Orrin T. Williams, R.
Fifth District, Conrad Krez, D.
Sixth district, William Pierron, R.
Seventh district, Charles H. Anson, R.
Eighth district, Henry Schuetz, D.
Ninth district, Philip Schmitz, Jr., D.
Tenth district, John Horn, D.
Eleventh district, Ambrose McGuigan, D.
Twelfth district, Michael Kruszka, D.

After deliberating on the measure from February 27 until April 16, this delegation finally presented a report, Mr. Williams dissenting, recommending certain amendments and the passage of the bill when amended. As it applied only to Milwaukee county the delegation was a determining factor in the situation and the bill was amended as suggested and passed. Action in the senate was expedited by the Milwaukee members of that body, John J. Kempf and Paul Bechtner, republicans, and Herman Kroeger and Chris-

tion Koenitzer, democrats, who gave the measure their unqualified indorsement. The bill was passed, signed by Gov. George W. Peck, also a Milwaukee man, and became a law by publication.

This statute illustrates, better than columns of newspaper articles could have done, the uninformed condition of public sentiment at the time it was passed and the stage to which the primary reform idea had advanced. The law prescribed how a citizen was to proceed in securing a "nomination to any office to be voted for at the election at which he desired to be a candidate," and explained how he might have his name printed on the official primary ballot, which was to be provided by the party committees. He was required to file with the county clerk "a written notice specifying his name, age, residence, giving street and number if possible, occupation, nationality, and the office to which he desires to be nominated, which such notice shall be indorsed by at least ten qualified electors and freeholders of the ward or township in which he resides; and any such notice not so indorsed shall not be received or filed by such county clerk." Caucuses were to be held on the same day for each party and be kept open for a stated period.

On the face of this law a direct vote was required for all candidates for city and county offices in Milwaukee county. Conventions and delegates were not mentioned in the law or given legal recognition in any manner. While they were not specifically abolished or forbidden in terms, no other reading can be given the Keogh law except that it required a nomination by direct vote of every candidate in the country.

But the thought of abolishing conventions had doubtless not entered the minds of the men who were responsible for the enactment of this statute. At all events, the only effect of its operation was to cause delegates to conventions to be classed as officers and their names were placed on the official primary ballots and their elections held under the conditions that obtained in the selection of ward and township officers. It did not occur to the members of the legislature or the people of Milwaukee county that the Keogh law had abolished caucuses and conventions and substituted therefor a sweeping primary election. But such was the case, nevertheless.

CHAPTER III.

The Development of the Milwaukee Primary Law.

All experience teaches that first attempts at legislation in a new field, where precedents are wanting and the framers of the proposed statute have only their desire to improve conditions and their native wit to guide them, usually fall far short of perfection. There have been few men in the history of the race who could draft a legislative act that would answer the purpose desired without subsequent changes. Even when the matter under consideration is one that has been mulled over many times before, it is the rule that many an i must be dotted and many a t crossed before the last word is said on the subject.

This was the case with the Keogh law. It was a crude effort at best, and the result of its trial was that the first bill introduced in the assembly in 1893 was for its repeal. This bill was No. 1A, and it was speedily passed and became chapter 7, laws of 1893.

But the reform effort did not stop here. Milwaukee political leaders and business men were not satisfied to go back to the old system. A new bill was introduced in the senate by Michael Kruszka, who had been promoted to that body by his constituents. This bill was numbered 144S, and upon its passage and publication it became chapter 249, laws of 1893, and was called the Kruszka law. Gov. George W. Peck's name appears on the original bill on file in Madison.

In this statute, which, like its predecessor, applied only to Milwaukee county, some progress was attained and conventions and delegates were specifically recognized. Provision was made for the organization of township, ward and county committees; for the holding of township and ward caucuses at which local officers were to be nominated and delegates elected to district, city and county conventions; primaries were to be conducted like elections, to be in charge of officers appointed by the committees, and votes were to be canvassed and returns made as in the case of regular elections. Only qualified electors were permitted to participate in these caucuses and penalties were prescribed for all fraudulent voting or attempts to commit fraud.

This bill was also referred to the Milwaukee delegation, which assumed all responsibility for it, and a new law thus came into being and was given a trial in the subsequent campaigns.

When the time came to test the law of 1893 the secretary of the Milwaukee republican county committee, Dr. W. A. Fricke, who was a stickler for order and method and a believer in perfect party organization, found that his work was cut out for him if he was to comply with all its provisions. Not having been built up and fitted together piece by piece, as the result of mature experi-

ence and educated statecraft, it was found that the act was equally as valuable as an indication of what should be done and what avoided in framing a new law as it was as a statute for the regulation of the primaries. The republicans of Milwaukee county had, as the result of an attempt to comply with the Keogh law of 1891, completed a county organization that was the most perfect of any that had been in existence up to that time. In 1893 the committee had reorganized under the Kruszka law and was in still better shape. Now, in order to comply with the new law as far as possible, forms and blanks were prepared by the secretary and an effort made to follow out in detail every provision made for the government of the primaries. This was found to be a difficult problem and it never was satisfactorily solved.

But the experience gained at the spring election in 1894 was worth all the trouble and money it cost, as it enabled the committee to adopt a set of regulations for use at the primaries in the fall of that year that proved to be of value when the time came to frame a third experimental law in the winter of 1895.

The history of bill number 329S, 1895, is an interesting one. The republican party had once more elected a majority of the two houses of the legislature and Gov. William H. Upham presided in the executive chamber. Senator Kruszka, still in the senate and still interested in caucus reforms, felt that it would be better to have the new bill drawn by him introduced by a member of the dominant party. In this emergency Senator Thomas B. Mills of Superior was appealed to for help and he introduced the measure and championed it, although it still remained a local Milwaukee bill. It was referred to the committee on privileges and elections on Feb. 12 and slumbered in the committee box until April 4.

Meanwhile there had been many conferences on the subject between interested parties, as others besides the original promoters of the movement had become interested. Dr. Fricke, in particular, representing the Milwaukee county republican committee, was active in these conferences. The forms and blanks used at the spring caucuses of the republican party and the carefully prepared regulations drawn up for use in the autumn of that year were brought into the conferences. The result was a substitute bill that more nearly attained the object sought than any previous effort had done, as it represented the best thought of leading men in and out of politics in the state at that time. This substitute was reported by the committee, passed both houses, was signed by Gov. Upham, and became chapter 288, laws of 1895.

By this act caucuses were defined and directions given for holding all such meetings under the provisions of this statute; all other gatherings for the purpose of nominating candidates for office or electing delegates to conventions were declared illegal and forbidden. Only qualified electors of the party holding the caucus were entitled

to vote, and punishment was prescribed for all who voted or attempted to vote unlawfully. The mode of electing county committeemen was prescribed and the duties of those bodies were defined. Caucuses were to be held in regular election booths to be kept open in city wards from 4 to 9 o'clock p. m., and in towns and villages from 3 to 6 o'clock p. m. County committees were to appoint annually on the first of February three electors in each ward, township, and village, to act as inspectors. Caucuses were not to be held more than two days before the conventions at which the delegates to be elected were to serve. All local officers were to be nominated by a direct vote by ballot at the caucuses and votes were to be canvassed and returns made as at elections. The penal statutes applying to all elections were made a part of the law.

One of the important features of this act was the provision made for placing candidates before the primary, a matter that has caused considerable controversy since the primary law now in force went into effect. The expense incidental to the circulation of nominating papers and much of the labor and cost of ante-primary campaigns were avoided by holding a preliminary meeting at which names were suggested to be voted for at the regular primary. These preliminary meetings were called by the county committee and were held four days before the date set for the caucus. The meetings were regularly called to order by the local inspectors, a clerk was elected, and any qualified elector could be placed in nomination by the mere suggestion of his name. The clerk of the meeting made a record of the names suggested in the order in which they were presented and certified the list to the county committee, which body prepared tickets for the primaries. No other ticket could be used at the caucuses and the voter was required to mark out all the names of candidates for whom he did not want to vote. The board of registration was directed to furnish a list of registered voters to all inspectors of primaries, and voters whose names did not appear on those lists were required to swear in their votes.

As this law applied also to Milwaukee county only, the support that secured its enactment came mainly from that county. By this time, however, there were leaders in other sections of the state who were becoming interested in the movement. They had watched developments in the Milwaukee primaries and were preparing to take steps to enlarge the scope of any workable law that gave promise of assuring clean primaries and a full and free expression of the will of a majority of the party voters at such meetings. The members of the Milwaukee delegation in the legislature in 1895 were: Senators James C. Officer, William H. Austin and Charles T. Fisher, republicans; Oscar Altpeter and Michael Kruszka, democrats. In the assembly:

First district—H. S. Dodge (R).

Second district—George R. Mahoney (D).

Third district—G. J. Jeske (R).
Fourth district—Frank Anson (R).
Fifth district—Albert Waller (R).
Sixth district—R. Klabunde (R).
Seventh district—Edward C. Notbohm (R).
Eighth district—E. R. Stillman (R).
Ninth district—C. Winter (R).
Tenth district—Theodore Prochnow (R).
Eleventh district—Chris. Paulus (R).
Twelfth district—Andrew Bonsel (D).
Thirteenth district—B. A. Eaton (R).
Fourteenth district—E. D. Hoyt (R).

When the legislature of 1897 met at Madison the people of Milwaukee county had made two trials of the new primary law and they were pleased with it. Not only were the citizens of the metropolis of the state, where the greatest need of primary regulation had been felt, content to continue working under the new system, but leading men of other sections who had taken occasion to observe the operations of the plan were convinced that it was a substantial, workable reform, and were in favor of extending the advantages it afforded to other cities.

For the reasons given a new bill was prepared and introduced, making such minor changes in the statute as experience dictated and providing for extending it to "all caucuses and meetings of political parties held for the purpose of nominating candidates, or choosing delegates to assemble in convention to nominate any person for public office, to be voted for at any general or municipal election held in all the cities in this state, except as hereinafter provided." The exception mentioned was placed at the end of the first section and reads as follows:

"The provisions of this chapter shall not apply to municipal elections held in cities of the third and fourth class until such cities have adopted the same, as provided in section 11 of this act."

Section 11 explained how the question of the adoption of the plan for making nominations by ballot at primaries was to be submitted to a popular vote in cities of the third and fourth class.

The principal amendments made in 1897 to the law as it then existed, and as it applied to Milwaukee county were: (a) The hours during which the caucuses were to be kept open in city wards were from 12 m. to 8 p. m. (b) At preliminary meetings the names of persons suggested as candidates to be voted for at the primaries were to be written on slips of paper and deposited in a box. After nominations had closed, the names were to be withdrawn from the box and placed on a list by the secretary in the order in which they were drawn. In that order they were to be printed on the official ballots.

This measure, which was senate bill No. 58, was introduced by

Senator Thomas B. Mills of Superior, and met with little or no opposition in either house, so unanimous was the sentiment in favor of the effort then being made to find a way by which the initial, or fundamental, meetings of party members could be made as free from objectionable features as possible, thereby encouraging a full attendance and an untrammeled expression of opinion in the selection of party candidates.

Up to this time the men who subsequently became known as primary election reformers had taken no hand in the work of framing the laws to better conditions. The movement had been an evolutionary one, pure and simple, and a majority of the leaders whose pushful energy and persistent determination had carried it to its then stage of development would not be called politicians, if a strict classification were to be attempted. Many who aided them were plain business men who had been sent to the legislature, not because they were reformers, but because they were believed to be men whose brains were capable of doing good, plain thinking. Also, there were business and professional men who held no official positions who gave the movement their moral support.

The final step in the primary evolutionary movement was the passage of assembly bill No. 126, introduced by Louis A. Lange, a Fond du Lac democratic newspaper publisher, which was approved by Gov. Edward Scofield May 3, 1899, and became chapter 341 of the laws of that year. Up to this point there had been steady, substantial progress from year to year, progress dictated by sound judgment and marked by experiments in every campaign. It was a far cry from the Keogh law of 1891 to the Lange bill of 1899. Important were the changes that had been made, but the movement had been evolutionary in its character from beginning to end.

The law of 1899 extended the operation of the Milwaukee law to the entire state so far as it was believed to be wise at the time. It was made to apply, in a modified form, to all towns, cities and villages. It was essentially an experiment, the purpose being to discover how a law, originally framed to meet the demands of a city where congested wards were to be found and where the voting population of any ward was as numerous as that of an ordinary city in the interior of the state, would work in the rural districts and villages. It had been successfully tried in many of the cities of the second, third and fourth class. The question was, would the rural communities take kindly to it and would it prove beneficial in such places?

No reasonable man can doubt for an instant that, had this movement been permitted to continue, there would have been steady but gradual improvement in the primary laws until approximate perfection would have been attained in statutes that could be made to work smoothly and justly, because they would have been based on ripe experience—as were the statutes already in force. But

this was not to be. Already the revolutionary movement had been foreshadowed by the introduction of a sweeping direct primary election bill in 1897 by Assemblyman William T. Lewis of Racine, in public addresses by Robert M. La Follette, a tentative bill prepared for publication and publicly circulated by Hon. L. J. Nash of Manitowoc, and a bill introduced in the assembly by Gen. George E. Bryant in 1899 as a suggestion of what Mr. La Follette then advocated. In other states the sentiment in favor of a more radical reform measure was spreading. Meetings of reformers were held, states were falling into line, the Outlook Magazine, edited then as now by the Rev. Lyman Abbott, was conducting an energetic campaign, and the demand was becoming general that all conventions for the nomination of candidates for public office be abolished by law. California, Oregon, Minnesota, and Illinois had each adopted or were about to adopt the direct primary system. There was a strong sentiment in New York in favor of the same plan and in other states the campaign was progressing satisfactorily—from the viewpoint of the reformers.

No specific complaints have ever been registered against the law of 1899. Under that law Robert M. La Follette was nominated for governor of Wisconsin by the republican party in 1900. The story of the revolution that followed is entitled to treatment by itself.

CHAPTER IV.

How the Direct Primary Idea Was Born, Grew, and Flourished in Wisconsin.

There is much to be regretted by the people of Wisconsin in the history made during the bitter factional feud that broke out in the winter of 1901 in Madison. As is always the case when two wings of a political party engage in a heated controversy in which the personal element plays a conspicuous part, neither side was entirely blameless in this instance. There were men in both factions who at heart were actuated by the highest motives, whose personal integrity should not be questioned, but whose acts on occasions were colored to some extent by their surroundings and associations. Sincere men who tried to do their duty were misunderstood and misjudged by others, equally sincere, who in their turn were misunderstood and misjudged. The trouble at Madison was that the legislative and executive wires were crossed and the wholesome currents of reason and wisdom were short circuited.

The consequence was that the advancement the people had a right to expect from that and succeeding legislatures was made impossible. Reforms that had been well started on the road to ultimate success were side tracked indefinitely. Measures that required the wisest counsel of all members of the legislature to make them workable and effective for good became the subjects of acrimonious debate and the best results were not attained. Undue weight frequently was given to matters of relatively trifling importance; factional advantage was sought on occasions by perniciously active partisans at the sacrifice of the best interests of the state, and the more conservative members of both parties to the controversy were at times swept into the heat of battle against their better judgment, which was held in abeyance for the time being.

It was not the proposition to reform the primaries that brought about the unfortunate outbreak of hostilities beginning in 1901 and continuing through successive campaigns. As has been shown, the work of improving the primaries, begun in 1891, had progressed steadily from that time through successive biennial sessions of the legislature down to the year 1899. The old mass caucus had served its day and purpose and had been summarily deposited in that gulf into which are dumped all worn out institutions that have outlived their usefulness.

The first step toward the entire abolition of conventions as well as caucuses in this state was made in 1897 by the introduction of bill No. 580A by Assemblyman William T. Lewis of Racine, a manufacturer and business man, not a professional politician. Mr. Lewis was not the author of the "Lewis Primary Election bill," as it was afterward called. When he came to Madison there were two

subjects in which he was interested and for which he hoped to secure a respectful hearing. One was convict labor, he being opposed to allowing the inmates of the state prison to compete with free labor; the other was the direct nomination of all candidates for office by the voters at primary elections.

Shortly after the opening of the legislature Mr. Lewis called upon Mr. La Follette, then a private citizen practicing law in Madison, having failed in his effort to secure the republican nomination for governor the previous year. Mr. Lewis presented the two subjects mentioned to Mr. La Follette, explained his understanding of them, and asked La Follette to draw two bills to be presented to the legislature covering those subjects. Mr. La Follette replied that he was so busy at that time that it would be impossible for him to comply with the request, and declined to undertake the task.

Mr. Lewis then laid the matter before another Madison attorney with better results, as he did secure a bill relating to convict labor, which he introduced. Some time later the attorney came to Mr. Lewis with the draft of a primary bill, and that, too, was introduced and became the Lewis primary election bill of 1897. It provided for holding primaries on the first Tuesday after the first Monday in September of each election year and the nomination of all candidates for public office by a direct vote of the party members. The primaries of all parties were to be held at the same time and place, but they were to be in fact separate primaries, as each party was to have its own inspectors, ballots, and ballot boxes, and the voters were expected to state their preferences as to parties and to participate in the nomination of the candidates of the party thus selected, and no other. On April 8 this measure was indefinitely postponed on recommendation of the committee on privileges and elections, the committee that reported favorably on the Mills primary bill already referred to.

The second bill to require nominations by a direct vote was introduced in the legislature in 1899 by Gen. George E. Bryant, afterward chairman of the republican state central committee. This measure was almost identical in its provisions with the Lewis bill and it met the same fate at the session that passed the Lange law extending the scope of the Milwaukee law to the entire state in a modified form.

In the absence of evidence to the contrary it is fair to presume that the Lewis bill was Mr. La Follette's first introduction to the primary idea. Up to that time, although he frequently had appeared as the champion of reforms of one kind or another, he had never proposed the nomination of candidates by a direct vote. He had been defeated in the convention of 1896, an event calculated to make him resentful and cause him to meditate revenge, but it was a year after he had talked with Mr. Lewis that he first gave public expression to his wish to do away with conventions altogether. The

Lewis bill was introduced in the assembly on Feb. 10, 1897, and in March, 1898, Mr. La Follette made his famous Ann Arbor speech before the students of the University of Michigan, in which he took an unequivocal stand in favor of the abolition of all caucuses and conventions and the nomination of candidates for state, congressional, legislative, judicial and local offices by a direct vote of the electors, using the Australian ballot. He did not present an outline of a measure to be adopted, but contented himself with proving to his own satisfaction that official and corporate corruption, of which he painted a lurid picture, could only be banished from our states by the application in some practical form to be devised by legislatures of the broad principle of direct nominations. This address was printed in the Chicago Tribune at the time and caused considerable comment. Also it was delivered before the students of the University of Chicago and on every occasion where Mr. La Follette could secure an audience.

The same year, Mr. La Follette became a candidate for the republican nomination for governor a second time and once more he was defeated in the state convention. The campaign was a warm one and the attacks made on Gov. Scofield by Mr. La Follette's partisans were not calculated to induce the people of Wisconsin to trust the fiery aspirant for gubernatorial honors and his partisans with the government of the state.

The convention of delegates did, however, adopt a platform in which appeared a plank that has since been interpreted to mean that the primary election idea was popular and had been promised to the people of the state. The plank read as follows:

"Recognizing that the present caucus and convention law is not free from defects, we favor such legislation as will secure to every citizen the freest expression of his choice in the selection of candidates."

The republican party, aided by democrats, had been endeavoring for eight years to remedy the defects in the caucus and convention system, and they were in a fair way to succeed.

But it must be acknowledged that to Robert M. La Follette should be given whatever credit is due for the ultimate adoption of the primary election system in Wisconsin. While others may have originated the plan and dreamed over its success at some future time, he took the matter in both hands and went out to cultivate the crop, even if he did not sow all the seed. As a platform orator he has strong points. He is intense, he is dramatic, he is forceful. He faces his audiences with flashing eye and a forty-man power energy. He convinces by sheer force of eloquence—not spontaneous, but carefully studied, and therefore effective. His hearers are swept along with a flood of words and sentences which they have no time and usually no disposition to weigh and analyze.

When such a man starts out to popularize a plan or idea he gets a hearing. Mr. La Follette based his advocacy of the direct vote

plan of making nominations for office on the allegation that conventions invariably were machine ruled and that the boss, omnipresent in the political world and ranging in degree from the little minnow bosses in the townships and wards to the big whale boss that governed the state, could be overthrown in no other way. He was particularly severe on the railway corporations, and their officials, who were supposed to control party conventions with the help of the bosses, great and small. He professed to see corruption of the most offensive kind on every hand as the sole result of convention manipulation; he saw corporations uniting with professional politicians for the enslavement of the people, the control of legislation, the tempting of executive and administrative public servants from the path of rectitude. The one sovereign remedy that appealed to him was the abolition of conventions. Probably a more depressing, pessimistic word picture of alleged total depravity was never presented to the public for its enlightenment than the one held up by Mr. La Follette as an accurate portrayal of conditions from which he drew his inspiration to push forward the primary election movement.

Mr. La Follette delivered his address before the students at Ann Arbor in March, 1898. On March 21, 1898, the first draft of a tentative primary bill prepared by L. J. Nash, the Manitowoc lawyer, was printed in The Milwaukee Sentinel. Mr. Nash perfected his measure later, and in August of that year he caused several hundred copies to be printed and circulated among leading men of the state, educators and members of the legislature. It has been said that a copy of the Nash bill was in the hands of the men who framed the primary bill in 1901, but there is no record evidence of that fact.

In presenting his proposed measure for the consideration of public spirited citizens, Mr. Nash did not take the position of an alarmist. He believed public sentiment was changing and that the time was rapidly approaching when there would be no occasion for debate. "If thoughful men are not now unanimous on this subject it is believed that they will fast become so," he said in a preface to his printed bill. His explanation of the reasons that prompted him to prepare the measure and offer it to students of the subject for examination and criticism were stated in a few words. He said:

"The draft of a primary election law presented in the following pages is the offspring of a belief that it has become the duty of the state to take into its own hands the whole machinery by which candidates for public office are selected, and to restrain the activity of political parties within its legitimate field, education; compelling them to abandon office getting mainly through organization and organization mainly for office getting as their principal reason for existence, and to substitute the function of teaching public policy and inculcating political doctrine as their primary object while allowing them to win the great political offices through the success of their propaganda. All this should be done, of course, by laws that are both in their provisions and their administration judicially fair to every party alike and to the unorganized independent voter."

There is no evidence at hand that Mr. Nash had a selfish motive in preparing and presenting his measure to the public and it must be conceded that he was inspired by worthy purposes. He brought to the task a trained legal mind and an experience as a practicing attorney that had won him distinction at the bar. But at best his knowledge of the subject treated was purely academic. The trials made of the direct vote system of making nominations had been conducted in limited spheres and one of the most serious objections to the plan was thereby evaded.

The Nash bill provided for two primaries. At the first a preliminary vote was taken to place candidates in the field; at the second the candidates were nominated. The regular election machinery of the townships and wards was to be used for operating the primaries. All primaries were to be held at the same time and place. Existing laws were to be made a part of the new law and the qualifications of voters in the primaries were to be the same as at general elections. The candidates for governor and lieutenant governor were to be nominated at the primary, but it was provided that the candidate for governor was to name the candidates for other places on the state ticket—to appoint his cabinet as it were, and submit their names to the voters for confirmation or rejection. Provision also was made for placing independent, or fusion tickets in the field.

CHAPTER V.

IN THE SPRING OF 1900.

Early in the Spring of 1900 the belief became general that Mr. La Follette would make another trial to win the nomination for governor at the hands of the republican party. That he always had intended to be a candidate there can be no reasonable doubt, but no public declaration of that intention was made until May 16, at which time a mild, conciliatory announcement addressed to the republican voters of Wisconsin was printed in The Milwaukee Sentinel, then owned and managed by men who were his strong partisans. In that announcement the primary election movement was not specifically mentioned, but reference was made to the fact that he had, with others, labored for years "to secure the recognition of certain principles as just, equitable, and republican." As he referred to taxation reforms, presumably as an interpretation of the statement quoted, and as no further hint was given of his purpose to push his primary ideas to a revolutionary issue, little, if any, thought was given to the subject, the announcement being regarded as the formal utterance of a candidate who desired to make the best possible impression without saying anything that would give offense or occasion for alarm.

The announcement opened the campaign in earnest, as five other candidates were then in the field. They were: State Senators DeWayne Stebbins, John M. Whitehead, A. M. Jones; the Hon. Ira B. Bradford and Gen. Earl M. Rogers.

On May 31, as a means of heading off a rumor that he would, if elected governor, use the position to attempt the defeat of U. S. Senator John C. Spooner for re-election, Mr. La Follette came out in a public statement, also printed in The Sentinel, which pledged his absolute neutrality in the selection of a successor to Senator Spooner. He stated in so many words that he would do nothing to interfere with Senator Spooner's re-election, but that he would confine himself entirely to the duties of his office with the hope of earning and securing a renomination at the expiration of his first term. He intimated that his purposes were peaceful and that he hoped for harmony hereafter.

The closing sentence of this statement was a significant one, in that it shows to what extent he wished it to be understood the change of heart professed by him had affected his attitude toward the other leaders of the party in the state. During the campaign of 1898 an attack had been made upon Gov. Scofield by means of a pamphlet "published by direction of the republican club of Milwaukee county," that was unique in the history of Wisconsin politics. It was so bitter in tone, so malicious in character, so utterly unjust and heartlessly cruel that it raised up friends for Gov. Scofield on every hand.

The republican club of Milwaukee county was a La Follette organization and the members were in constant communication with the Madison branch of that republican faction.

In his explanation of May 31, he referred to the pamphlet in the following language:

"In this connection, it may be as well to say something with reference to my candidacy of two years ago. My reasons for being a candidate at that time were justified and emphasized by the convention in its platform. It has been largely the faithful observance of the pledges then given which entitles Gov. Scofield's administration, at this time, to public approval, in which I heartily join. Some phases of that campaign not within my control I should have been glad to have seen omitted. For them I should not be held responsible any more than my opponents in this campaign should be blamed for the personal attacks now being made upon myself."

Historical accuracy demands that the false impression conveyed in the last sentence of the paragraph quoted should be challenged. Mr. La Follette was not slandered, maligned or abused in that campaign by any opponent. His republicanism was questioned, that was all.

Among the first conventions called in the state were the two held in the Waukesha assembly districts, the home of State Senator A. M. Jones, a candidate for the nomination against Mr. La Follette. It was in this county that the decisive battle was fought and won by the friends of the Madison man. Mr. La Follette had a perfect organization in Waukesha and Milwaukee counties and Mr. Jones was weakened by the loss of the anti-La Follette support that had served in the past to keep that gentleman in check. The Waukesha campaign was in the main conducted from Milwaukee; the plans were laid in Milwaukee and a large part of the money required to meet expenses was furnished by the Milwaukee friends. Mr. Jones was defeated in both districts and on June 30, the day the first district convention was held, he withdrew from the race. On July 2 The Sentinel printed the following explanation of the situation at that time:

"For two weeks past the air has been full of talk of a combined opposition to the La Follette movement, but it is now freely admitted that this is only talk; that there is no such movement. Mr. Payne, who expects to devote his whole time to the national campaign, is evidently not going to interfere in the preliminary contest for the nomination in Wisconsin or any other state. As a national committeeman and one of the managers of the presidential campaign he will have to be in touch with the various state republican campaigns, including that in Wisconsin, and he can not therefore interfere, although it is no secret that he would prefer some other candidate than Mr. La Follette. There is no sign that either Senator Spooner or Senator Quarles is trying to organize any movement for or against any candidate for governor, and friends of both of them have said they have no such intention. Under the circumstances the possibility of any such movement, if it was ever contemplated by any one, may be said to have passed."

Mr. Bradford retired from the race on July 3; on July 6 Mr. Whitehead withdrew; July 14 Gen. Rogers sent in his announcement

of withdrawal; Senator Stebbins held on until July 24, when he, too, stepped out of the race, leaving the track to Mr. La Follette, who at this time had an overwhelming majority of the delegates elected and more than half the counties of the state had held their conventions. And still Mr. La Follette held his peace with respect to the primary election idea.

In the latter part of July, however, when his nomination was assured beyond peradventure, Mr. La Follette sent for some of his Milwaukee friends for a conference at Madison. He handed them a copy of his Ann Arbor address on primary elections and asked them to look it over. He explained that he had given the subject deep study, that he understood it thoroughly and wanted a plank in the forthcoming republican platform committing the party irrevocably to the enactment of a primary law. For the purpose of arousing public sentiment he desired that a large number of pamphlets be printed and distributed and asked that the necessary money be contributed to his campaign fund to make this possible. His Ann Arbor speech contained a severe arraignment of railroad officers which was evidently directed against the presidents of the leading lines in this state. Mr. La Follette was told that it would be unfair and an evidence of bad faith to print and circulate at such a time, after months of silence during which he had received the support of the railroad companies through their officers, an address in which those same men and corporations were held up to public scorn as types of everything that is mercenary, dishonest and corrupt. He was also reminded that he had given his personal pledge to the railroad officials that he would cease his unjust attacks upon them in return for their support in the campaign then on, and that he should abide by his promise. He was also reminded that a primary law was no part of the harmony program that he had himself promoted and that if he desired to force a primary plank into the republican platform he should have so stated when he announced himself as a candidate. He acknowledged the force of the argument so far as his reference to railroads was concerned and agreed that the intemperate language contained in the address as it was originally written should be stricken out, but insisted that the pamphlet be printed in revised form and circulated, which was done.

As further evidence of his peaceful frame of mind, Mr. La Follette prepared and printed with the address an introduction in which the astonishing statement was made that primary elections were needed to guard against waves of popular indignation that were likely to injuriously affect legislation. He proposed the primary as a safeguard against aroused public prejudice. Here is his own language on the subject:

"For many years, through the press and from the platform, I have earnestly endeavored to fix public thought upon this most important subject, because it is the foundation of representative government. The entire superstructure rests upon the nomination of

candidates for office. Under the caucus and convention system a wave of popular interest or indignation may sweep over a state, occasioned by some special or peculiar wrong, and a much aroused public sentiment take charge of the nomination of candidates for the time being. But wrongs righted in this way are liable to carry legislation to the extreme, work positive harm to important interests, discredit reform and cause reaction, resulting in disappointment and loss of public interest. Relaxation of public interest invites fresh encroachments upon the rights of the people, and, ultimately, recurring and spasmodic efforts to remedy evils."

The address with the introduction was first printed in The State, Mr. La Follette's personal organ, during the week ending July 28, and the introduction in The Sentinel on July 28, 1900, all these publications being made after the opposition to Mr. La Follette had collapsed and all the candidates opposed to him, withdrawn.

The platform pledge inserted by the convention at the request of Mr. La Follette was all that he asked. It called for the abolition of all caucuses and conventions and the nomination of all candidates by a direct vote. Its language was unequivocal and definite, as follows:

"The great reformation effected in our general elections through the Australian ballot inspires us with confidence to apply the same method in making nominations so that every voter may exercise his sovereign right of choice by direct vote without the intervention or interference of any political agency. We therefore demand (recommend) that caucuses and conventions for the nomination of candidates for office be abolished by legislative enactment, and that all candidates for state, legislative, congressional and county officers be nominated by a primary election upon the same day by direct vote under the Australian ballot."

CHAPTER VI.

A HARMONIOUS CAMPAIGN.

Having succeeded in securing the nomination, Mr. La Follette went into the campaign with the solid strength of a united party behind him. There had been defections or bolting on the part of some of his followers in 1896 and again in 1898, but there was nothing of the kind in 1900. His net majority over his four competitors on election day was 103,745. The campaign was a vigorous one, and in every address delivered by him Mr. La Follette explained his primary election theory and appealed for support in his efforts to secure for Wisconsin the great blessings he professed to believe would follow the enactment of such a law.

The student of events will look in vain for any indication of a split in the republican party during the campaign of 1900, or any indication that a political eruption was impending. During the campaign the republican state central committee maintained offices at the Pfister hotel, the old republican headquarters. At the head of that committee as chairman was Gen. George E. Bryant, who was considered as a sort of political godfather to Mr. La Follette, and a large majority of the members of that body were dyed in the wool La Follette men. The campaign expenses were met in the usual way, the usual contributors chipping into the hat to create a fund with which to pay the cost incidental to maintaining speakers in the field, circulating literature, and perfecting a party organization in the several counties. A special train was engaged to take the candidate for governor through the state, to the end that he might meet his engagements with as little strain upon his physical strength as possible. All was harmony, cordial good fellowship, and hope that the factional differences that had more than threatened in former years had permanently disappeared.

After the close of the campaign, conditions remained unchanged. The white winged dove of peace had become the emblem of the Wisconsin republicans and she no longer lived in terror of being cooked or eaten raw by frenzied factionists. The republican state central committee met on Dec. 13 at the Pfister hotel and there exchanged congratulations and attended a banquet spread at the behest of their chairman in their honor. On Dec. 1 the governor-elect, who had returned that day from an Indiana health resort, where he had gone to recover from the fatigue of the campaign, gave to The Milwaukee Sentinel an interview which was printed on the first page of that paper the following morning. Brotherly love, harmony, sweet reasonableness and everything desirable and comfortable to have around were the lot of republicans at that particular time. In his interview Gov. La Follette said:

"I wish to express my appreciation of the splendid support I received during the campaign. The campaign was ably managed by Gen. Bryant and Secretaries Host and Richter of the republican state central committee. They ran a thorough, clean campaign, and I commend them for their work and thank them for it. I deeply appreciate the support I had, both here at home and throughout the state. The gold democrats have again demonstrated their fidelity to principle in a striking manner. The large plurality given the republican ticket is a strong indorsement of the principles set forth in the republican state platform and shows that we have a united party to stand for those measures to which the party was pledged at the last state convention."

That was the situation when Robert M. La Follette was inaugurated governor of Wisconsin in January, 1901. He had been elected governor by "a united party." He was governor of the state and as such was entitled to the respect of all citizens, regardless of party. A majority of the members of both houses of the legislature elected with him were in sympathy with every reform movement that had been proposed or mentioned in the platform. No deadfalls had been set to catch him and no pits had been dug for him to fall into. There were men who believed he had made an unjust and malicious attack upon his predecessor, Gov. Scofield, in 1898, who were not too confident of the future, but they hoped for the best and were determined to give him a fair trial. No man could have been inducted into high office under conditions favoring him more than those that attended the inauguration of Gov. Robert M. La Follette.

A brief explanation is required here in order to clear away a misunderstanding, purposely created, that has influenced the minds of certain citizens. It was said that eleven state senators met in Milwaukee on December 13, at the time of the meeting of the state central committee already mentioned, for the purpose of devising a plan to organize the senate in opposition to the governor. The eleven senators who attended a meeting on that day were composed of three La Follette men, seven who were not unfriendly to him, although they were not in sympathy with what they believed to be his tendency to radicalism, and one who had little if any faith in him, but was willing to give him a chance to "make good." The La Follette men were Edgar G. Mills, Superior; Andrew L. Kreutzer, Wausau, and D. E. Riordan, Eagle River. The "fair minded" senators were Julius E. Roehr, J. H. Green and William Devos of Milwaukee; John Harris, Elkhorn; J. A. Willy, Appleton; H. Hagemeister, Green Bay, and John Reynolds, Kenosha. The one senator who was sleeping on his arm as a matter of precaution was A. M. Jones of Waukesha.

This meeting was held for the purpose of talking over informally the makeup of the senate committees. The state senate, unlike the assembly, selects its own committees. The assignments are not made on the spur of the moment on the day the senate meets. They are the result of conferences, deliberation, correspondence, during

which the wishes of the senators themselves are consulted so far as is possible. At the meeting referred to there were eleven members of that body out of a total of thirty-one republicans. At subsequent meetings, all informal and some merely accidental, the subject of committee assignments was discussed. When the members finally came together at the opening of the session the business of this character not already determined—and there had been a number of senators in attendance on the inauguration ceremonies—was closed up. When the senate was called to order on Jan. 9, three resolutions were introduced. Resolution No. 1 invited the clergy of Madison to open the daily sessions of the senate with prayer. Resolution No. 2 instructed the clerk to notify the assembly that the senate had organized and was ready for business. Resolution No. 3 introduced by Senator Stebbins, was the one appointing the committees of that body.

Had the meeting held in Milwaukee been antagonistic to Gov. La Follette, called for the purpose of planning to defeat his pet measure, the committee on privileges and elections would have been packed against the primary election bill. As a matter of fact, the committee before whom that bill would come was made up of Senators Hatton, Miller and Martin, three intense partisans of the governor; Senator Whitehead, a "progressive" who had taken a hand in previous primary legislation, who had helped to frame the corrupt practices act of 1897, and who was a leader in all tax reform legislation; and Senator Jones, the ultra-conservative.

With respect to this matter, one more point remains to be cleared up. In his message vetoing the Hagemeister bill several months later. Gov. La Follette said, among other things:

"Immediately upon the organization of the legislature, many weeks before any bill had been offered upon the subject of primary election, it was boastingly announced and published that one of its branches had been so organized as to defeat the passage of any primary election legislation."

If such announcements and publications were made they were without authority and were untrue in substance and detail. Organization to defeat primary election legislation would have begun with the committee on privileges and elections. That committee was favorable to primary election legislation. The legislature convened on January 9; the Stevens primary bill was introduced in the assembly by Mr. Stevens and in the senate by Senator George P. Miller on January 28, nineteen days after the two houses convened. At best, nineteen days is not "many weeks," and although the bill for which the fight was finally made was a substitute, the statement of the governor did not specify that particular substitute, but said the alleged organization had been formed "many weeks before any bill was offered upon the subject of primary elections."

CHAPTER VII.

A Period of Uncertainty.

It is an interesting fact that, with three noteworthy exceptions, no man connected with the faction that subsequently fought Gov. La Follette so bitterly can put his finger on the specific act of the governor that first aroused his ire, or name the exact time when he concluded to paint his face, put feathers in his hair, and take to the warpath. Most of them were surprised when they first realized that they had left the reservation and were armed and equipped for battle. At the outset there was considerable interest, not of a hostile character, however, in the steps to be taken to fulfill the platform pledge with respect to primary elections. It was conceded that the pledge must be redeemed and it was supposed that all republicans would be given an opportunity to express their sentiments upon the subject. In his message the governor had explained his theories at considerable length, just as he had explained them in 1898 and on every possible occasion subsequent to that date, with the exception previously noted, during the preceding campaign. It had been the custom in the past for members to call at the executive chamber frequently for informal consultations and conferences on all subjects relating to legislation. The doors of the executive chamber always had been open during office hours, and frequently long into the night during legislative sessions, and visitors were welcomed and made to feel at home.

But conditions were changed now. As the days passed it was noticed that an air of mystery was beginning to gather about the capitol building. Men were called to the executive chamber for conferences, it is true, but they were carefully selected from among their fellows and the consultations were always held behind closed, guarded doors. They were star chamber sessions of the most secret kind. Newspaper correspondents who had had the run of the anteroom of the executive apartments in past years were frozen out entirely or made to feel extremely uncomfortable while there. There was an indefinable something in the atmosphere of the outer executive office that made it impossible for certain visitors to penetrate far beyond the portals with any degree of ease.

Long before any attempt was made to organize a faction in opposition to the governor there was a faction organized and disciplined to carry out his program. His line of battle was formed to fight a foe not yet in existence; his generals, aids and lieutenants were appointed and entered upon the discharge of their duties. The atmosphere of mystery that at first enveloped the executive chamber only, spread to the entire capitol—legislative chambers, committee rooms, corridors, even the cloakrooms and closets. There were little gatherings where whispered consultations were

held; there was evasion, suspicion, secrecy on every hand. Every employee in the state house that could be dragooned into the ranks was made a secret service agent in addition to performing his regular clerical duties. Two men would be talking in a corridor and a third would approach; instantly there would be warning glances exchanged and the two would separate, to be seen again a few minutes later continuing the conversation. A true blue administration supporter would shy at the coming of an outsider as if the intruder were afflicted with a contagious disease, for the servant of the executive feared he would be suspected of disloyalty should he be caught in friendly converse with one not yet initiated into the sacred arcana and possessed of the countersign, grip and password.

All this may sound like a childish fairy tale to one who did not go through that experience, but it is the bald, literal truth nevertheless. Those who visited the state house at Madison during that memorable session either on business or pleasure bent, became conscious at once of the changed atmosphere, the oppressive psychic force with which the capitol was charged as with an electric current. It is this same force that has in the past, under conditions favorable to such results, brought about great religious revivals, panics, or lynchings, as the case might be.

But although the situation described was enough to cause a dangerous tension, Gov. La Follette did not appear to appreciate that fact, if he is to be given credit for desiring to avoid a factional war. At all events, if his purpose was one in which peace and progress had a part, he displayed a lamentable lack of tact in dealing with members of the legislature. He did not appear to know how to treat with equals. He was wonderfully persuasive at times and his influence over some of his adherents had many of the characteristics of hypnotism. In no other way can be explained their consent to become involved in a political intrigue that would have been in place in a Latin American republic, but which was entirely foreign to Wisconsin methods.

When flattery and cajolery failed and the hypnotic spell would not work, it was the governor's invariable custom to appeal to the cupidity or fear of the man he wished to influence. The frank, open manliness that should have characterized the intercourse of legislators with one another and with the executive and administrative department was wanting from the day the legislature convened. In place of reason there were plottings. In place of a free interchange of opinions there were lightfooted messengers hurrying about the capitol, mysterious messages delivered with nods and winks and sidelong glances, and star chamber sessions of "friends of the administration."

But Gov. La Follette did not always succeed in his efforts to influence even his friends and hold them in line for the full program prepared by himself. There were three men at least who

knew when their attitude of friendliness toward the governor and prejudice in favor of his legislative program ceased. Each was called in turn to the executive chamber for an executive session. Each had ideas of his own which he had expressed freely without having first had them indorsed by the governor. They were brought "under the influence" which was expected to make them pliable and responsive to the word of command. When these men came away from the conferences there was blood in their eyes and their souls were congested with language it were a sin to repeat, or even think.

They made no secret of the fact that they had become insurgents—as they now would be called. They were all state senators and their names were O'Niel, Kreutzer, and Riordan.

The condition of public sentiment on the primary election movement when the legislature convened in January, 1901, is clearly illustrated by the attitude of the newspapers of that day. As there was no division in the republican party, it will be conceded that the newspapers reflected the real sentiments of the people, so far as the people had been able to form opinions, and that they were not guided by factional prejudices. There had been considerable public discussion of the subject, it is true. In his message vetoing the Hagemeister bill four months later Gov. La Follette told what had been done to inform the voters relative to the merits of the primary election reform. He said:

"Whatever was done was solely with the view of stimulating thought and argument of the measure upon its merits. From platform and pulpit, before agricultural societies, good government clubs, political clubs, debating societies, in the school houses and public halls, wherever men were gathered together, the dangers which threatened representative government were discussed, the causes plainly traced to the selection of candidates by the bosses, the vital importance of election by the people by direct vote, and the necessary provisions of a primary law were fully and fairly presented. The press of the state almost without exception gave the subject editorial treatment from time to time, while the leading periodicals and magazines of the country, widely read by our people, devoted much space to its consideration. Hundreds of thousands of pamphlets and addresses presenting every phase of the issue and meeting the arguments and objections of the opposition were distributed throughout the state. The entire matter was thoroughly well understood."

But, granting that a persistent and energetic campaign had been waged in the interests of the movement, there was still a marked lack of enthusiasm manifested, and, so far as the newspapers were able to judge, a grave doubt existed of the ability of the legislature to invent a workable plan for putting the theoretical reform into practical operation. At all events, sentiment was not united in favor of the movement, as the governor appears to have believed.

Few of the leading newspapers in the state pretended to speak

with authority on the subject. The Milwaukee Sentinel and Daily News were both unqualifiedly in favor of the governor's plan of reforming the method of selecting candidates. The Sentinel was at that time the La Follette personal organ, its chief editorial writer, Jerre C. Murphy, having been appointed to the position of private secretary to the governor. The Daily News had, since 1896, been the leading "progressive" democratic paper of the state, and as such it supported the primary election movement from the beginning, although the democratic party had not consistently committed itself to that reform. In 1900 the democratic state platform contented itself with merely condemning the "present caucus law" as a "complicated and expensive nominating system," and favored a revision that would "result in a simple, direct, and inexpensive method of nominating candidates for office."

The Milwaukee Journal adopted a come-let-us-reason-together editorial tone that had all the appearance of suppressed hostility, which later developed into open antagonism. The Evening Wisconsin was noncommittal as to the primary election bill while all the time it was frankly and unmistakably friendly to the governor.

So far as the country press were concerned, there were a large number of the newspapers that did not take part in the discussion, their publishers being manifestly "on the fence," or unable to decide the matter to their own satisfaction. At that time the Milwaukee Journal was devoting considerable space to the country press, printing excerpts from editorials and commenting on them. In newspaper parlance, it was "featuring its state press column." On February 22, 1901, it compiled from that department a list of fifty-nine papers that had expressed opinions on the subject of the proposed primary election law. Of that number twenty-two were friendly to the bill and thirty-seven were opposed to it. Of those that favored the measure, two were independent, three were democratic, and seventeen were republican in sentiment. Of those opposed there were fifteen democratic, twenty-one republican, and one independent. There was at least one republican daily in the interior of the state that was opposed to the movement that does not appear in the Journal's list.

One feature of the newspaper situation at the time worthy of mention was the attitude of the Madison staff correspondents of the Evening Wisconsin and the Milwaukee Journal. The latter paper was represented at Madison by Ellis B. Usher, a gold democrat. The Evening Wisconsin's staff correspondent was Col. Dan. B. Starkey, late private secretary to Gov. Scofield. Both of these men were given considerable lattitude by their papers and they signed their letters. While the papers did not take a stand against the primary movement, both Usher and Starkey made no secret of their personal opposition to the attempt at reform legislation of that character. Col. Starkey, whose work always had been in the

news department, naturally gave his letters the appearance of news reports, while Mr. Usher, a former publisher and editorial writer, followed the habit of years and wrote what may be called editorial news letters to his paper. Some of the strongest arguments ever printed against the primary election movement may be found in the letters written by Mr. Usher to the Milwaukee Journal during that memorable session of the legislature.

One of the most important events of the winter—the most important so far as relates to the newspaper situation—was the sale of The Milwaukee Sentinel in February. Up to that time The Sentinel had been owned and edited by ultra-La Follette supporters. By the change of ownership it became the property of Charles F. Pfister, who had been a neutral during the pre-convention period and a supporter of Gov. La Follette in the campaign for the election of the republican state ticket. The editorial announcing the change, written by the new editor in chief, Lansing Warren, indicated that The Sentinel would be a consistent, conservative, loyal republican paper under the new management.

CHAPTER VIII.

OPPOSITION TO THE PRIMARY BILL DEVELOPS.

The administration primary election bill was introduced in the assembly by E. Ray Stevens and in the senate by George F. Miller, on Jan. 28. These men were members of the committee on privileges and elections in their respective houses and a majority of each committee was in favor of the bill as introduced. At that time there did not appear to be any doubt about the passage of the bill substantially in the form as introduced. Whatever dissent there may have been in the minds of individual legislators was merely passive; there was no organized opposition. Even the most conservative members of the two houses declined to commit themselves in a public statement, explaining that they had not been able to give the measure the consideration it required in order to inform themselves with respect to its merits or demerits. Col. Starkey reported to the Evening Wisconsin that the bill would surely pass and become a law.

The first hearing on the measure was held before a joint meeting of the committees of the two houses on Feb. 12, at which time H. C. Adams, Gov. La Follette's dairy and food commissioner, and H. C. Taylor, Orfordville, appeared for the bill, and James G. Monahan, collector of revenue for the western Wisconsin district, appeared in opposition.

It was charged later that Mr. Monahan, a federal office holder, was the spokesman of an organized movement acting under instructions from persons "higher up." As proof of the truth of this indictment it was shown that, on Feb. 4, a circular letter had been sent out from Darlington, Mr. Monahan's home city, signed by George F. West and addressed to republicans who had attended the republican county convention for Lafayette county as delegates the previous year. This letter was a protest against the passage of the primary bill by Mr. West, who had been a delegate to the republican state convention in August, 1900. He explained that, as such delegate, he had not voted for a measure like the one introduced in the legislature when the platform was adopted and did not believe the republicans of Wisconsin were in favor of such a law. He asked those to whom the circular was addressed to sign a protest, for which a form was inclosed, to be sent to members of the legislature.

On February 11 The Sentinel printed a news dispatch from Madison in which reference was made to the West circular letter and it was asserted that "federal officeholders in the state are making a campaign to defeat the primary election bill." Mr. Monahan, United States District Attorney W. G. Wheeler, and Edwin D. Coe, United States pension agent, were all mentioned by name.

Mr. Wheeler's offense was in having been seen about the corridors of the capitol building and Mr. Coe was charged with having written newspaper articles and letters in which the primary election proposition was criticised. It was intimated that "some influence was working against the bill," the inference being that United States Senators Spooner and Quarles had taken a hand in the matter and were acting through the federal officeholders.

When the hearing was held before the committees meeting in joint session, Mr. Monahan prefaced his address with a personal statement to the effect that he had not counseled with either of the senators on the primary bill. He denied that he had ever talked with Senator Quarles on the subject and had not seen or heard from that gentleman in months except once, when he received a letter from him relating to a pension matter. He had never talked with Senator Spooner on the subject but once, and that was "a few moments, months ago." He denied that there was any combination of officeholders to defeat the bill and claimed for himself the right to express his personal opinions on this or any other matter pending before the legislature.

In the face of this definite denial, the original article in which the charge was made was mailed the following day from the office of Gov. La Follette in packages containing the governor's Ann Arbor address, H. C. Adams' address and the speech made by Mr. Taylor of Orfordville. These packages were sent to 50,000 Wisconsin voters. Even at that early day it was an offense to mail a protest to a few delegates in Lafayette county, while it was permitted to sow circulars broadcast throughout the state accompanied by a statement the truth of which already had been challenged by a man who knew the facts, provided the circulars were designed to aid the administration. Gov. La Follette reiterated the charge against the federal officers when he wrote his Hagemeister bill veto message.

Mr. Adams' address was the keynote speech in support of the primary bill. Mr. Adams held an appointive position under the governor, but no objection was ever filed against his activity in the campaign for the primary law. He had served as chairman of the republican state convention the previous August, and, in putting the motion to adopt the platform he had failed to call for the negative vote, declaring the motion carried unanimously after the affirmative vote had been taken. Mr. Adams also had participated in the labors of the framers of the bill and it was understood that he contributed materially to the work of unraveling some of the most perplexing tangles that confronted them. He was thoroughly familiar with the subject and was, by natural ability and careful preparation, the best man that could have been selected for the task of opening the debate.

There is probably nowhere in the literature on the subject an

abler defense of the primary election theory in general and the Stevens bill in particular than the address delivered by Mr. Adams on that occasion. It was a masterly argument, consummately artful, clear, concise, forceful, and convincing. The reasons given for favoring the measure were identical with those advanced by Gov. La Follette in his published addresses and his message to the legislature—a desire to give every voter an opportunity to express his choice of candidates by a direct vote under the Australian ballot system and to take from the political machine, the political boss, the power to manipulate conventions and thereby defeat the will of the voters. Mr. Adams went over the primary bill and explained its provisions, showing how it was expected to accomplish the objects sought, and closed with an eloquent appeal to the committee—and incidentally to the members of the legislature who thronged the chamber where the hearing was held—to support the measure and write it into the statute books of the state.

Mr. Monahan attacked the bill in general and in detail. In his opinion its tendency was populistic, and not republican. Specifically, he enumerated the following objections to the bill as it was framed, but he did not ask that it be changed, expressing a belief that it could not be improved, being wrong in principle:

"First—The method provided for getting names upon the primary ticket would be burdensome, expensive, and calculated to retire from politics modest men who would not seek office, to 'increase the activity of the boodler and professional politician, lengthen the arm of the boss, and increase the strength of every machine in the state.'

"Second—It would give the cities practical control of the nomination of candidates.

"Third—The bill would impose a tax of approximately $150,000 upon the people of the state. 'Unnecessary taxation is unjust taxation.'

"Fourth—Under the provisions of this bill we would abandon the system that the majority shall rule for one that minorities may govern.

"Fifth—This bill takes away from the people the right to make platforms and gives the power to candidates for office.

"Sixth—The provisions of the bill make it impossible to consider location or nationality in the nomination of candidates.

"Seventh—The bill in principle is a long step toward the abandonment of representative government, bequeathed to us by the founders of this government, for the vagaries of populism."

Subsequent meetings were held at which speeches were made for and against the proposed law. Those appearing for the measure were James A. Frear, Hudson; L. H. Bancroft, Richland Center; F. M. Miner, Eau Claire; W. G. Corrigan, Plainfield; John Strange, Oshkosh. The speakers who opposed it were M. G. Jeffris, Janesville; Henry Fink, Milwaukee; H. H. Hayden, Eau Claire. H. W. Chynoweth of Madison closed the debate by appearing and summing up for the supporters of the bill on Feb. 26.

From the time the first opposition was manifested until Mr. Chynoweth's address was delivered as the last word on the subject from one who personally represented the governor there had been talk of a compromise measure. It had been suggested that candidates for county offices and for the legislature be nominated at the primary and all other candidates nominated and platforms made at conventions. Another suggested measure provided for the nomination of candidates for county offices only at the primary. Still another proposal was that the primary be confined for the time being to a particular section of the state where it could be tried out, to be extended to the entire state if found to work satisfactorily. The day following Mr. Chynoweth's address, however, the following paragraph appeared in Col. Starkey's dispatch to the Evening Wisconsin, announcing that a damper had been put upon all compromise efforts:

"All hope of a compromise is now at an end. Mr. Chynoweth boldly declared last night that Gov. La Follette was behind the bill demanding its passage as the reward of victory, and the governor is determined not to yield an iota so far as the main features of the bill are concerned."

Still another incident illustrates how an end was put to the compromise talk. The Sentinel had formally changed hands on Feb. 19, but no mention was made of the primary election bill for several days, or until Mr. Warren, the new editor, could visit Madison and talk with the governor. That visit was made on Feb. 26, the day Mr. Chynoweth appeared before the committee, and Mr. Warren called at the executive chamber and had a conference with Gov. La Follette.

Mr. Warren later related to friends the story of that meeting, but, although Gov. La Follette never deigned to deny in person the accuracy of Mr. Warren's narrative, his friends did make such denial. Mr. Warren's subsequent acts, however, are enough to indicate the tenor of the conversation and the outcome of the conference.

Mr. Warren went to Madison on a peaceful mission. So much is known definitely by many. He hoped to come to an understanding by which The Sentinel could support La Follette and his administration. He made no secret of his purposes. Among other things he proposed to suggest certain amendments, or modifications, of the primary election bill. The interests of the republican party as a political organization were at stake, and he hoped, as the editor of the leading republican paper of the state, to secure a respectful hearing for his views and to arrive at an understanding by which a division in the party could be avoided and the harmony that had resulted from Gov. La Follette's nomination, but which was threatened by the exasperating circumstances attending the incubation and final hatching of the primary bill, might be saved from total wreck.

On his return to Milwaukee, Mr. Warren wrote, in a railway coach, an editorial which, although the meeting with Gov. La Follette is not mentioned, speaks plainly as to the result of that attempt on his part to arrive at an understanding. He said:

"In its present form the Stevens primary election bill can not become a law because Wisconsin is a loyal republican state.

"The objections to the bill, as drawn, are specifically too varied and self-evident to call for enumeration. In general terms, it may be fairly characterized as radical to a populistic degree and revolutionary in the worse sense of the word.

"The obliteration of all caucusses and conventions means the temporary destruction of all party organization in Wisconsin, and that is the chief end and aim of the experimental measure.

"The only logical argument in favor of the bill is that its salient features were indorsed by the republican state convention. It is an interesting coincidence that this proposed legislation should have derived its chief excuse for existence from one of the 'corrupting conventions' which it was designed to wipe off the face of the earth. It is not at all certain that this same convention did not extend its powers when it passed the platform which contained the pith of the Stevens bill in one of its planks. The legitimate function of a committee on resolutions is to enumerate principles and not to make laws. According to the republican platform adopted in Milwaukee on Aug. 8, 1900, by the republicans of Wisconsin in convention assembled, some such legislative enactment as the primary election bill was undoubtedly outlined and demanded. That convention, however, had not the authority to draft any specific bills or to insist on any particular scheme of individual action on legislative measures.

"Conditions today must guide the legislators at Madison when they vote for or against the Stevens bill. The friends of the measure will not submit to any amendment or alteration in its provisions, nor will they consent to restrict its operations for two years to a few counties to test its efficacy.

"Every senator and every assemblyman must gracefully swallow the Stevens bolus or have it forced down his throat. This is the dictum of the political iconoclasts who must rule or ruin.

"These are some of the many reasons why the conservative, self-respecting republicans of Wisconsin will not dare to stain the statute books with the Stevens primary election bill."

This was the first editorial to appear in The Sentinel in which definite, unequivocal objection to the program of the governor was made. In point of fact, it may be said that this was the first editorial to appear in any paper in the state in which Gov. La Follette or his administration measure were criticised severely. As has already been said, the Daily News was supporting him loyally and advocating the passage of the primary election bill; the Evening Wisconsin was friendly to him; the Journal was not disposed to support the primary bill, but it had not printed any editorial criticisms that the governor could take exceptions to; The Sentinel had been his personal organ, doing his bidding as completely as it would were he in control of a majority of the stock of the company that owned it. And he had then been in office forty-six days. Surely this does not indicate that there was a conspiracy against Gov. La Follette on the part of the conservatives when he was inaugurated.

CHAPTER IX.

The Pitched Battle.

The contest came to a head when the primary election bill was reported by the committee of the assembly and the vote on passing it to engrossment and third reading was taken. Day by day the men opposed to the measure had been gaining confidence. They even ceased talking about compromises as they began to hope they could defeat the measure entirely. They no longer urged that as a last resort the question be submitted to the people by referendum. Dozens of men who had maintained a neutral position at first now came out in opposition to the measure, having heard the arguments before the committee and given the subject consideration on their own account. There was a distinct educative value attached to the controversy and the seeds sown were beginning to sprout.

Another factor was beginning to have an effect on the situation. The close friends of the administration were attempting to convey the impression that they were the anointed ones and in possession of the ark of the covenant. To them was given the right to speak with authority and they must be obeyed. To disagree with the governor was represented as a peculiar species of treason complicated with impiety, blasphemy, and lese majeste. Men who dared to express opinions without having first had them vised at the executive chamber by the governor himself or by "Jerre" became politically unclean and were classed under three general heads as "corruptionists," "corporation corruptionists," or "corrupt hirelings." The spirit of the master was breathed into the members of the faction and it was bitter as gall.

On Monday, March 18, the bill came before the assembly in the form of a substitute reported for passage by the committee, Assemblyman John C. Karel dissenting. There was no material difference between the substitute and the original bill. The members who signed the report were E. H. Steiger, chairman; E. Ray Stevens, who gave his name to the bill; W. W. Andrew, W. J. Middleton, L. N. Coapman, and John A. Henry. It was placed on the calendar for Tuesday, the following day, and made a special order for the evening of that day, the purpose being to railroad it through under the whip.

Columns have been written and printed about that memorable session of the assembly, beginning at 7:30 p. m., March 19, 1901, and closing in the chill of an early March morning. In his veto message returning the Hagemeister bill to the senate weeks later, Gov. La Follette told the story as he wanted it printed in the legislative records. Magazine contributors who revel in descriptive writing have painted word pictures of it that were as vivid as a rarebit dream. Stump speakers have described it in language that made their audiences gasp and wonder to what extremities staid

old Wisconsin was drifting. And yet, it was not such a remarkable session.

Before the bill could be brought to a vote, the question being on engrossment and third reading, one of the members who was opposed to its passage moved a "call of the house" and his motion was supported. The member who made the motion was E. A. Williams, a republican, who lived at Neenah. This was not such an extraordinary proceeding. A "call of the house" had been made that same day, March 19, on motion by Assemblyman Eline of Milwaukee, when senate bill No. 394 was under consideration. A motion to suspend the rules and act on the bill at once had just been taken and resulted in a vote of 65 to 19 in favor of the motion. Mr. Eline, who was opposed to the bill, then moved a call and he was sustained. In the case of the primary bill, a motion to substitute the committee bill for the original Stevens bill had been made and resulted in an affirmative vote of 53, negative 39, there being at that time eight absent members. Had the friends of the bill been able at any time during the night to muster fifty-one votes they could have raised the call.

While the call was in force the members could transact no other business. The sergeant at arms was out looking for members absent without leave. The only motions that could be entertained were "to dispense with further proceedings under the call," or "to adjourn." Until the call could be raised, therefore, the only thing the members could do was to visit. A long night passed under such conditions naturally calls for some means of relieving the monotony and passing the time, but there was nothing doing in the assembly chamber that night that need call for special remark; nothing that ninety-two big, robust men, awake and looking for amusement, would not be likely to do under similar conditions at any time.

But Gov. La Follette did not see in that session an ordinary occurrence. To his mind there was malicious villainy and corrupt plotting at the bottom of the entire business. Although his veto message was not written until nearly two months later, his story of the conspiracy that came to a head on that eventful night is worth repeating and should be considered in the light of known facts. He said:

"Before the introduction of the primary election bill the attempt was made to arouse distrust concerning it, and to thoroughly discredit the measure in advance. Upon its presentation to the legislature—so framed as to comply with the pledge made to the people of the state—a systematic campaign of misrepresentation of the bill and its supporters was industriously prosecuted. The general purpose of the measure, the plain meaning of its provisions, the certain effect of the law in operation, the necessary and reasonable expense, each and all furnished theme for persistent falsification and malicious assault. An array of federal officeholders, joining with certain corporation agents and representatives of the machine in the regular legislative lobby, moved upon the capitol, took possession of its corridors, intruded upon the legislative halls, followed members to their hotels, tempted many with alluring forms of vice, and in some in-

stances brought them to the capitol in a state of intoxication to vote against the bill. This sets forth in part the character of the opposition, but omits to take account of some of the means used, or attempted to be used, to prevent the passage of the measure."

This sounds like an indignant protest against specific acts believed to be subversive of good government and in conflict with the higher political ethics. But before sharing in the governor's indignation it is best to examine certain self evident facts that require no affidavits to establish their reliability.

It is impossible to find a record of any "campaign of misrepresentation of the bill and its supporters" after the bill was introduced and while it was pending before the committee. The columns of the newspapers do not give any indication of such a campaign. The speeches made before the committee do not furnish the evidence required. The fact that the opposition was entirely at sea during that time was well known. With the exception of Mr. Monahan, who adopted as his motto, "pass the bill or kill it," those opposed to the measure were in favor of a compromise, a fact that is made evident by Mr. Chynoweth's statement that a compromise would not be considered.

Second—It is charged in the complaint that the campaign of misrepresentation had to do with the "general purposes of the measure, the plain meaning of its provisions, the certain effect of the law in operation, and the necessary and reasonable expense." Wisconsin people of today are in a position to know whether these points were misrepresented or fairly considered.

Third—When the bill came up in the assembly under special order there was a call of the house. A roll call revealed the fact that five members were absent without leave and two with leave. No business could be transacted until the five members were found and escorted to the chamber, and no members could leave the chamber while the call was in force. As this was the time when the mob is supposed to have taken possession of the capitol, it may be of interest to note that members could not be "followed to their hotels" at a time when they could not leave the chamber, and no man in his right mind would tempt a member with "alluring forms of vice" under the conditions that obtained in the chamber.

Fourth—The "array of federal office holders" consisted of James G. Monahan, William G. Wheeler, and Henry Fink. These men were present during the evening out of curiosity and an aroused interest in the question before the assembly. Two of them had offices in Madison, and, having been interested in public affairs for years, naturally drifted to the assembly chamber on that evening. Neither of them remained until the close of the act. Mr. Fink was in Madison on business. He did not go there to attend the session, but, being there, he spent a part of the evening at the capitol, as is his custom.

Fifth—If by "certain corporation agents" is meant the railroad

representatives at Madison, every member of the legislature knows that they did not take a hand in the proceeding that evening. There were important bills pending before the legislature in which the railroads were interested and their representatives were careful not to offend the governor. There had been no breach between the corporations and the governor at that time. That came later. The primary bill did not affect the railroads in any way and their representatives were wise enough to keep "hands off" where the governor's pet measure was concerned. Even if they had been disposed to oppose the bill, open opposition on their part would have been sheer madness, and no one ever accused them of not knowing their business.

Sixth—There was an unusual number of people at the capitol during the early hours of the night when the call of the house was in force. Many of them were interested in seeing the pending bill defeated while others were interested in seeing it pass. All had a right to be there. All were citizens of the state. The debate had aroused interest in the measure and the knowledge that it had been made a special order for that evening called out a crowd, but the crowd did not all go there to work for or against the bill. They were there out of curiosity, nothing more, and they did not stay until the end. The workers for the bill were as active, if not more so, than those who opposed it. Any reflection on the activity displayed by the opponents of the measure will reflect with equal force upon its friends.

Seventh—It is true that there was one instance where a member was brought to the capitol "in a state of intoxication." The case of this member was a peculiar one. When sober he was inclined to question the divine right of the governor; when intoxicated he was an ardent administration supporter. He was under the influence of the administration workers when he became intoxicated on that particular occasion, but he was stolen by the opposition and locked in a committee room to sober off. There were dozens of men in attendance that night who knew the facts relating to this incident. It was common knowledge among the members of the legislature. The search for the missing man by the administration runners in was a warm one, but they did not find him until the opposition were satisfied that he knew "where he was at." He was reported present at 10 o'clock p. m., and remained in the chamber during the night. He was entirely sober when he voted against the bill the following morning.

Another member who had slept off the effects of copious potations during the night was brought to the assembly chamber in the morning by the sergeant-at-arms and Henry Overbeck, an administration "whip." This man voted to raise the call and to pass the bill. While he was not in a state of intoxication when brought to the chamber, he was suffering from recent overindulgence and refused to accompany the officer to the capitol until he was given a

"bracer" to steady his nerves. The search for this member was a long one because he had realized his condition and found a hiding place into which the searchers could not penetrate. These were the only men who were "brought to the chamber" to vote. This is the foundation upon which was built that part of the charge laid at the door of the legislature by Gov. La Follette which relates to the use of liquor as a corrupting agent on that particular occasion.

This may not be as interesting a story of the all night session of March 19, 1901, as the one told by the La Follette press bureau later, but it has the advantage of being literally true and uncolored. What it lacks in sensationalism, in picturesqueness, in dramatic force, it makes up in veracity and harmony with the facts.

When morning came the administration forces had secured enough votes to order the bill to engrossment and third reading and they raised the call by a vote of 52 to 45. The previous question was ordered by a vote of 56 to 41 and the bill was ordered to a third reading by the same vote. It is manifest that some of the men who favored the passage of the bill—or at least voted for it when it came up—aided in preventing the call from being raised. There was no debate on the measure.

An analysis of the vote by which the primary election bill was ordered to a third reading discloses the fact that—to adopt the terms that later came into use to designate the factions—of the 56 votes for the measure 13 were cast by stalwarts, 2 by democrats and 41 by half breeds. Of the 41 votes against the measure, 26 were cast by stalwarts and 15 by democrats.

When the vote on the final passage of the measure was taken three days later, but 9 stalwarts voted in the affirmative while 31 voted against it. Of the democrats 2 voted for and 16 against the bill. Forty-one half breeds, all there were in the assembly, voted in the affirmative. Had it not been for men who later became stalwarts, the primary election bill would have failed in the assembly.

The vote by which the bill was ordered to engrossment and third reading was as follows: (Assembly Journal, page 589).

Ayes.—Messrs. Ainsworth, Anderson, Andrew, Babb, Brunson, Cady, Clark, Coapman, Cook, Dahl, Duerrwaechter, Erickson, David Evans,Jr., Fenlon, Frost, Galaway, Gilman, Haggerty, Hall, Hanson, Henry, Hodgins, Holland, F. Johnson, H. Johnson, Jones, Krumrey, Lane, Lenroot, McCormick, McGill, McMillan, Manuel, Middleton, Overbeck, Park, Price, Rankl, Roe, Rogers, Root, Rossman, Sarau, Silkworth, Smalley, Steiger, Stevens, Sturdevant, Swenhold, Thomas, Valentine, Whitson, Willott, Young, Zinn, and Mr. Speaker.—56.

Noes.—Messrs. Barker, Barlow, Benson, Burdeau, Cleophas, Collins, Dodge, Dow, Eager, Ela, Eline, Evan W. Evans, Fessenfeld, Flaherty, Gagnon, Gawin, Hartung, Jenson, Johnston, Karel, Katz, Keene, Kern, McCabe, McComb, Maloney, E. A. Miller, Minor, Norton, Orton, Owen, Pomrening, Rasmussen, Schellenburg, Slade, Smith, Soltwedel, Spratt, Thiessenhausen, E. A. Williams, and J. C. Williams.—41.

Absent or not voting.—Messrs. Esau, Herman Miller, and Moldenhauer.—3.

CHAPTER X.

THE PRIMARY BILL IN THE SENATE.

When the state senate convened in January, 1901, seventeen of the thirty-one republicans in that body were known to be administration men. They were: Senators Anson, Bissell, Burns, Fearne, Hatton, Knudson, Kreutzer, McGillivray, Martin, Miller, Mills, Munson, O'Niel, Riordan, Stebbins, Stout and Wolff. Senators Whitehead and Roehr already had made records as "progressives" that would have led any forecaster who judged by past performances —to use a sporting term—to place them in the same ranks. Senators Gaveney and Mosher, both new members, were progressives also and would, under normal conditions, have acted with the administration. Of the remaining ten republicans in that body there was not one who would have made a fight against a reasonable primary bill had one been proposed at the beginning and had the methods used to promote it been such as would command the respect of a legislator who does his own thinking. Their names were: Senators Green, Devoes, Eaton, Hagemeister, Harris, Jones, McDonough, Reynolds, Morse and Willy. Senators Jacobs and Weed were the democratic members of that house.

From this analysis it is clear that at the outset twenty-one members of the state senate were what may be called "progressives" and were inclined to favor and support a primary bill that would redeem the platform pledge to the fullest extent consistent with safety and sound judgement. For four years Senator Whitehead had led the fight for taxation reforms and aided in the enactment of other progressive legislation which will be mentioned at length under its appropriate headings. Senator Roehr had made a record on insurance and taxation legislation as well as in the perfection of the Milwaukee primary law. Both of these senators, together with Judge Orton and others in the assembly, had even been accused of radicalism, and some of their acts had been criticized as altogether too advanced and tending to approach the danger line.

Yet the conditions that developed during the first six weeks of the legislative session of 1901, already briefly outlined, made it impossible for them to co-operate with the administration that was driving the new red wagon of progress. They were willing to go forward, but they did not believe in trying to reach the end of the journey at one leap. They were willing to experiment with a primary law, but they wanted a law that would not wreck political parties and put a premium on personal politics and the organization of personal machines.

As has been explained, three of the original La Follette men were expelled from the ranks for insubordination and conduct unbecoming soldiers in the administration army—O'Neil, Kreutzer,

and Riordan. The four progressives who were disposed at first to act with the administration, Whitehead, Roehr, Gaveney, and Mosher, were early given to understand that independence of opinion would not be tolerated and they, too, were literally driven into the opposition camp. Senator Bissell was converted to opposition to the primary law by the arguments before the committee. The conservatives naturally fell in with the men who had been ejected from the administration faction and those who had been refused admittance because they could not present proper credentials, and the stalwart faction in the senate was thus made up. Eighteen stalwart votes, to which were added those of the two démocrats in the senate, were counted against the primary bill when it came up in that body on April 11.

In order to establish a point of concentration for the opposition forces, Senators Hagemeister and Kreutzer each introduced a bill as a substitute for the original primary bill No. 73S, introduced by Senator Miller. These measures were introduced on April 9, two days before the original primary bill came up for consideration, and were placed in the files as substitutes No. 1 and 2, respectively. Senator Hagemeister's bill provided for the nomination of candidates for county officers only, while the one introduced by Senator Kreutzer provided for the election of delegates to all conventions, as well as the nomination of county officers, at the primary election. The first was a crudely drawn, brief measure that could not have been made effective had it been enacted into law; the second was more carefully prepared, and, had it passed, would have given an opportunity to fairly test the primary election plan under conditions favorable to success. Senator Kreutzer had taken many of the best features from the Milwaukee caucus law and incorporated them into his bill. Other features that would have added to its strength were omitted, but, on the whole, it was a measure worthy of consideration.

When the vote was taken and the original primary bill was defeated, 20 to 13, offers on the part of the administration senators of compromise measures were made, one after another, in rapid succession, but they were rejected. The Hagemeister bill was put forward by the stalwarts and Senator Hatton offered an amendment providing for the nomination of candidates for county officers and for the legislature by direct vote. Senator Miller offered the original primary bill, with a referendum clause. Senator McGillivray offered an amendment in the form of a substitute which provided for placing the names of candidates on the primary ballot by caucuses and conventions. All were voted down without hesitation.

Senator Kreutzer then withdrew his proposed measure and offered an amendment to the Hagemeister bill in the form of a referendum clause submitting it to a vote of the people, which was

carried. The Hagemeister bill was then passed by a vote of 20 to 13.

Where the administration made its mistake was in meeting all early suggestions of compromise with the statement that no material alteration or amendment to the original bill would be tolerated. That is, this was a mistake if the object sought was the enactment of a primary law at that session of the legislature. If it was the governor's purpose to play for position and secure an issue with which to go into the next campaign, the record is clear and no errors can be detected. It was the most astute political move that had ever been attempted in Wisconsin and it succeeded. The entire play was so carefully planned, so cleverly executed, and so cunningly used in the subsequent campaign that it cannot fail to excite the wondering admiration of the ordinary citizen who lacks genius in political manipulation but who approves of success at any cost and by any methods.

An excuse for rejecting the proposed amendments and modifications was found in the fact that they were not in absolute harmony with the platform pledge of the republican party. No measure less radical and revolutionary than the one proposed by the administration would redeem that pledge. But it must be remembered that the platform itself was the work of the same men—or man—who proposed to redeem it by the passage of the administration bill. Those who opposed the radical plank in the platform had not been given an opportunity to vote against it, but that did not count. The plank was in the platform and it stands today as the officially recorded expression of a republican state convention.

The stalwarts made a political mistake when they failed to pass an effective, workable substitute for the administration primary bill. The Hagemeister substitute was not such a measure. Experience in Milwaukee county and some of the larger cities of the state was entirely ignored when that bill was drawn and it was, therefore, a step backward in the evolution of the primary. Had they accepted the substitute offered by Senator Hatton when the Hagemeister bill was pending they would have "played politics" to some effect and in all probability saved the state from the experiences under the present primary law. But they were not in a frame of mind to compromise. The contest had been forced by the administration. Both sides were stripped and gloved for a finish fight; nothing short of a knockout would satisfy either.

Gov. La Follette was justified in vetoing the Hagemeister bill. He was not justified in sending to the senate an insult in the form of a message. That message, now printed in the official journal of the senate as a permanent record, is a stump speech intended for use in political campaigns and was unworthy of a governor who was addressing representatives of the people. There had been a difference of opinion between the senate and the governor, between the

legislative and executive departments, and that difference was upon a subject of legislation. The governor had a right to object to and veto a bill passed by the two houses; he had no right to scold like a fishwife because another bill, which he favored, was not enacted into law. It is not surprising, therefore, that the senate, in a resolution introduced by Senator Roehr, after quoting from the message some of the most violently abusive and demonstrably untruthful paragraphs, wrote into the official records the following protest against the outrage:

"This message, containing these statements, appears at large upon pages 1026 to 1035 of the journal of the senate. We therefore claim our privilege as senators to have it appear upon the record of our proceedings that we do not allow these statements of the governor to pass unchallenged, and that upon any view of his constitutional prerogative we deny that he is justified in thus addressing the legislature. We hold that 'no sense of obligation' on the part of the governor can excuse such grave reflections upon the members of the legislature as are contained in the portions of the message above quoted.

"We recognize the constitutional right of the governor freely to express his views upon the policy and validity of any legislation submitted to him for his approval but we hold that the use of such expressions as are above specifically referred to, transcend all bounds of official propriety and constitutional right.

"We protest, therefore, most earnestly as members of the legislature against the aspersions cast upon our official acts, upon our personal motives, and upon our private characters by the governor in his message to the legislature."

It was just such emergencies as this that President George Washington had in mind when he wrote the paragraph quoted below into his farewell address. At the close of his official career, after an experience of two terms in the office of chief executive of a nation of self governing people, the first president saw clearly to what length the lust of power would at times lead ambitious men, and he pointed out the necessity of keeping all public officers strictly within constitutional bounds. His words were not written to apply to a special case. They were a general statement of a principle of government that must be observed if this nation is to remain free and independent. He said:

"It is important, likewise, that the habits of thinking in a free country should inspire caution in those intrusted with the administration to confine themselves within their respective constitutional spheres, avoiding in the exercise of the powers of one department to encroach upon another. The spirit of encroachment tends to consolidate the powers of all departments in one, and thus to create, whatever the form of government, a real despotism. A just estimate of that love of power and proneness to abuse it which predominates in the human heart is sufficient to satisfy us of the truth of this position. The necessity of reciprocal checks in the exercise of political power, by dividing it and distributing it into different depositories, and constituting each the guardian of the public weal against invasions by the others, has been evinced by experiments ancient and modern, some of them in our country and under our

own eyes. To preserve them must be as necessary as to institute them. If in the opinion of the people the distribution or modification of the constitutional powers be in any particular wrong, let it be corrected by an amendment in the way which the constitution designates. But let there be no change by usurpation; for though this in one instance may be the instrument of good, it is the customary weapon by which free governments are destroyed. The precedent must always greatly over-balance in permanent evil any partial or transient benefit which the use can at any time yield."

That Gov. La Follette did not succeed in usurping the powers and constitutional prerogatives of the legislature was not his fault. The senate refused to permit him to dictate its action as a legislative body. The result was that, angered at the denial of despotic power which he craved, he wrote the message against which the senate placed upon record an official protest.

After the adjournment of the legislature the administration faction issued a "voters' handbook," in which it was charged that all offers to compromise had been rejected by the senate. This is true. It is also true that all previous offers to compromise had been rejected by the executive. The only difference was that the stalwarts, in their innocence and unskilled in shrewd political games of cunning and finesse, failed to put their offers of compromise on record by introducing bills.

It was at this point that the stalwarts were outgeneraled. They considered only the business before them and failed to make a record of their position to be used in their defense before the people in the campaign that followed. They were, most of them, experienced legislators, but they were not masters of the political game. Furthermore, they regarded Gov. La Follette as a republican and did not foresee the bitter fight within the party that was to follow. La Follette had the advantage as he no doubt had his course mapped out at that time.

The stalwarts proposed one amendment after another, but they did not make an official record of that fact. The administration men, on the other hand, when they found their bill was doomed and knowing that, in their present state of exasperation, the stalwarts would not consent to forego the advantage of superior numbers and permit the radicals to pass even a compromise bill, went after a record and they got it. They introduced amendment after amendment only to see them defeated—they were introduced for the purpose of having them defeated. They had no intention of passing them. They did not wish to pass them. Their record play was made in one evening after the close of the debate in which the only question discussed was the one of passing the original assembly bill.

CHAPTER XI.

The Wisconsin Republican League.

As this is a history of the primary election movement in Wisconsin it is unnecessary to go into details with respect to all of the incidents that punctuated the political feud born in the opening months of Gov. La Follette's first administration and continuing with increasing bitterness for four years. But, whatever the real cause of the feud may have been, the defeat of the administration primary bill by the state senate was the excuse publicly put forth in justification of the declaration of war by Gov. La Follette himself. There is reason to believe another issue would have been made to serve the purpose had this one failed, for there are ambitious men who can thrive only through agitation. But the primary bill had been defeated and it was therefore made the issue to the defense of which the personal admirers of the governor could be rallied. It was a providential bone of contention that would furnish an opportunity for just the kind of a fight most desired by the Wisconsin Napoleon of politics.

The record of that political contest is one of which Wisconsin men have no occasion to be proud—and the end is not yet. It is a record of passion and prejudice; a record of intense bitterness; a record of persecution and reprisal, of wrong and retaliation; a record of broken friendships and the birth of lasting enmities; a record of "malice, hatred and all uncharitableness." Reputable, clean business and professional men were arraigned before the bar of public opinion, tried, and unjustly convicted, without a hearing, of all manner of offenses against the common good. Private citizens who cherished no political ambitions were assumed to have committed the most serious political crimes and the assumption was accepted as conclusive evidence of their guilt.

The rule that "every seed shall bring forth fruit after its kind" is a universal law, as certain and immutable in its operations in the mental as in the physical realm. Where malice is planted malice will spring up and bear fruit after its kind. Suspicion, distrust, falsehood, injustice, all germinate and grow like rank weeds in the human soul and choke out the beneficent and nobler promptings of friendship based on mutual confidence, esteem and brotherly love.

The pernicious seeds of political and social discord were scattered broadcast throughout the state, and, be it said to our shame, there were so many citizens who were prepared to believe the worst that could be said about their fellows that the crop harvested was a bountiful one. Neighbor was arrayed against neighbor and brother against brother; social circles were divided and the influence of the controversy in some instances invaded the sacred places

and church congregations were in a measure affected by it. The old good natured rivalry that had characterized contests between the republican and democratic parties became a memory, for democrats trespassed upon republican ground and took a hand in the factional fight, the social democrats standing back meanwhile and vociferously applauding every abusive epithet hurled by either faction at the other.

Of a truth, Wisconsin cut a sorry figure before high heaven and in the face of the peoples of the earth in the year 1902.

After the adjournment of the legislature steps were taken to organize in an effective manner the members who were opposed to the methods and policies of the administration. Eighteen senators and forty-one members of the assembly joined in this movement. Of the eighteen senators, all had voted against the administration primary election bill. Of the forty-one assemblymen, twenty-eight had voted against the bill when it came up for engrossment and third reading and thirteen had voted for it. The thirteen were Speaker George H. Ray, and Assemblymen Frost, Hanson, Jones, Lane, Rossman, Willott, Young, Duerrwachter, Haggerty, F. Johnson, Park, Silkworth. Eight of these assemblymen also voted for the bill when it came up for final passage in the assembly. They were: Speaker Ray, and Messrs. Frost, Hanson, Jones, Lane, Rossman, Willott, and Young.

As an explanation of the reasons that inspired them to organize a league, these members of the legislature issued a public statement, called by the administration newspapers a "manifesto," in which they set forth plainly the principles for which it was their purpose to contend as an organization. Unlike most public documents of the kind this statement is not too long for reproduction and it is here given in full together with the names of all the signers as they appeared in the columns of The Sentinel on Aug. 18, 1901.

"To the Republicans of Wisconsin:

"The undersigned, republican members of the legislature of 1901, are convinced that the republican party of Wisconsin is upon the verge of a crisis which can only be averted by organized effort on the part of all republicans who consider party welfare above personal ambition.

"As representatives of the people, we view with alarm the persistent effort to strengthen the executive at the expense of the legislative department of the state.

"The constitution says: 'The legislative power shall be vested in the senate and assembly.' The perpetuity of our institutions depends upon the independence and integrity of each of the coordinate branches of our government. Neither is responsible to the other, but each is responsible to the people. Neither should submit to dictation from the other. Any attempt to subordinate the legislative department to the control of the executive is revolutionary and deserves prompt and emphatic rebuke.

"The public interest demands that among the several departments of government there be cordial and courteous co-operation.

"These propositions are so fundamental that they are more vital than party success itself.

"Many unwarrantable interferences with the exclusive powers of the legislature and attempts to coerce acquiescence in unreasonable acts and unwise experiments at the last session were contrary to the welfare of the people of Wisconsin, and created bitter factional differences in the republican party.

"The party must not permit itself to be divided, and possibly destroyed by factional disputes. Its purposes are too high, its work too important, to be dominated for personal ends.

"For these reasons we present to you the necessity of a wholesome organization, which shall truly represent the whole party and safeguard its principles. We have not in contemplation an organization for a single campaign, but one that shall be permanent and as comprehensive as the party it represents.

"In furtherance of such an organization, rooms have been leased on the eleventh floor of the Herman building, in Milwaukee, where all republicans will be welcome, and where opportunity will be afforded to enroll in the Wisconsin Republican league."

In the light of subsequent events this statement of principles reads like a prophecy. The league failed in its mission and the party it was designed to save from disruption was disorganized. It is surprising that so temperate a statement of important, not to say fundamental, truths should excite such violent antagonism, but the fact that the organized members who put forth this statement of principles were variously designated as "the Bolters' league," "the Eleventh Story league," the "platform repudiators," the "corporationists," the "corruptionists," and were given other and kindred titles of reproach, was not calculated to restore a cordial, friendly understanding between the wings of the party.

In view of the fact that the people of Wisconsin have for four years lived amid the alleged blessings that are inseparable from the primary election plan in full and complete operation, the men who signed a statement in which that system of making nominations was described as an "unreasonable and unwise experiment" are entitled to have their names printed with the statement. Nor will they object to have the people of the state reminded that they favored a modified form of the law in 1901. In order that the history of the movement may be made complete the names of the signers are here given:

Senators.—W. H. Bissell, Lodi; William H. Devos, Milwaukee; Barney A. Eaton, Milwaukee; John C. Gaveney, Arcadia; J. Herbert Green, Milwaukee; Henry Hagemeister, Green Bay; John Harris, Elkhorn; A. M. Jones, Waukesha; A. L. Kreutzer, Wausau; Frank McDonough, Eau Claire; Elmer D. Morse, Princeton; O. W. Mosher, New Richmond; William O'Neil, Washburn; John F. Reynolds, Genoa Junction; D. E. Riordan, Eagle River; Julius E. Roehr, Milwaukee; John M. Whitehead, Janesville; Albert T. Willy, Appleton;

Assemblymen.—Charles Barker, Milwaukee; John M. Barlow, New Lisbon; Willard E. Burdeau, Flintville; H. Cleopas, Beloit;

A. Clark Dodge, Monroe; Everett E. Dow, La Grange; P. G. Duerrwachter, South Germantown; Almeron Eager, Evansville; George Ela, Rochester; Fred J. Frost, Almond; John A. Haggerty, Ferryville; Andrew C. Hansen, Mindora; Fred Hartung, Wauwatosa; Andrew Jensen, New London; Franklin Johnson, Baraboo; James Johnston, Mukwonago; Evan R. Jones, Sparta; Francis B. Keene, Milwaukee; Nathan E. Lane, Phillips; Joseph Maloney, Bloomer; Edwin A. Miller, Hixon; Herman Miller, Wausau; Levi A. Miner, South Milwaukee; John E. Norton, Milwaukee; Philo A. Orton, Darlington; John W. Owen, Racine; Harry J. Park, Spring Valley; Herman Pomrening, Milwaukee; K. E. Rasmussen, Rice Lake; George H. Ray, La Crosse; George P. Rossman, Ashland; Charles A. Silkworth, Osseo; Dwight S. Slade, Slades Corners; Albert E. Smith, Delevan; Henry J. Soltwedel, Milwaukee; George Spratt, Sheboygan Falls; R. F. Thiessenhusen, Milwaukee; Edwin A. Williams, Neenah; Joseph Willott, Jr., Manitowoc; John H. Young, Eau Claire.

In the legislature of 1901 there were thirty-one republican senators and eighty-one republican members of the assembly. Two senators died before the organization of the league—Senators Stebbins and Fearne—leaving but twenty-nine republican senators in August, 1901. The names of eighteen of the twenty-nine members of the upper house appear on the membership roll of the league, and forty-one of the eight-one members of the lower house also signed the roll. The membership of the new organization thus embraced a majority of the republicans in each house and a majority of the entire republican membership of the legislature had they met in joint session.

CHAPTER XII.

The Campaign That Followed.

The campaign conducted by both factions during the fifteen months following the publication of the league statement was a lively one, but it is not one that can be pointed to with pride even by those who triumphed at the polls. Whatever experience the members of the league had gained in past campaigns was used for the purpose of perfecting a statewide organization. The term "perfecting" is employed in this instance from force of habit, but the literal definition of the word does not accurately describe the organization of the Wisconsin Republican league. Still, it would have served the purpose had there not been another political organization in existence that year. Gov. La Follette had "perfected" his political machine and he gave a new meaning, a new interpretation to the word in Wisconsin. The league had members in every county; Gov. La Follette had workers in every voting precinct. The league started out to make a poll of the state; Gov. La Follette already had a most complete poll and mailing list when he was inaugurated and he had improved it from month to month. The league succeeded in securing a reasonably complete poll of eleven counties and a partial list of voters in about half of the remaining counties; Gov. La Follette not only had his list of republican voters in every precinct of the state, but he also had in his possession the names of thousands of Bryan democrats who were classed by him under the heading "fair minded," and regularly supplied with literature.

The contest was in fact between the executive and legislative departments of the state government. The question at issue was whether the executive should be permitted to dictate the form and substance of legislative enactments. Stripped of all superfluous and bewildering generalities as well as personalities, this was all there was to fight about. The governor had a reform program which it was his purpose to see established in Wisconsin and this program included the enactment of certain laws into which must be incorporated certain well defined provisions about which he had been talking for years. The legislature declined to accept the governor's program without modification. The executive insisted; the legislature stood firm upon its constitutional right to determine for itself what laws shall be enacted. The executive accused the legislature of the grave offense of repudiating a plank in the platform he had himself dictated; the legislature replied that the executive was attempting to usurp the functions of the legislative branch of the government.

But, while this issue was not lost sight of in the campaign, the great mass of the voters of the state were bewildered by the flood

of argument and the tidal wave or personalities that attended upon the campaign as it progressed. It was specifically charged by the administration faction that the stalwarts represented "special interests" as opposed to a great reform movement; that "organized greed" was arrayed to defeat the purposes of a highly virtuous and wholly unselfish band of patriots whose sole aim was to serve the people intelligently and faithfully. It was even asserted that the contest was between "the people" on one side and "the machine" on the other.

As the split in the party had been caused by the primary election dispute—or, to be more exact, Gov. La Follette had used that issue as an excuse for perfecting a personal organization—the primary election proposition was naturally one of the most important matters discussed in the campaign. Isaac Stephenson, one of Gov. La Follette's backers, now junior United States senator, had generously joined with other enthusiastic members of the administration faction and supplied enough money to establish the Free Press. The columns of that paper were used to defend the governor's policies, while The Sentinel was employed to defend the Wisconsin Republican league. But neither paper devoted all of its time to the defensive side of the campaign. Both took the offensive on occasions. It may be explained here that the word "offensive" is used in this connection in the fullest acceptation of the term.

In carrying out the work of the league, of which W. H. Bissell had been made chairman and Col. Dan B. Starkey secretary, a large amount of literature was prepared and distributed. The country press was appealed to and many of the local papers throughout the state accepted and printed articles prepared by the secretary of the league and his assistants. Letters were written by voluntary contributors and printed in The Sentinel and other papers; thousands of circulars were prepared and distributed through the mails. As the campaign warmed up discussions were common on the streets and in public places generally in which the primary election plan was not the least interesting subject of debate.

At the same time the campaign of the administration faction was going forward apace and the same methods were used as were employed by the league. Wherever a country newspaper could be induced to aid the "cause" it was employed and praised for its disinterested service to the governor and his reform campaign. The The Free Press matched The Sentinel column for column, editorial for editorial, and letter for letter. In point of fact, a careful examination of the files will show that The Sentinel fell behind in the race if the total amount of space devoted to factional politics —for state politics had given place to factional politics for the time being—were measured.

The arguments for and against the primary election law proposed by Gov. La Follette can not be reproduced here at length, nor is it necessary to attempt to do so. The points urged by the friends and opponents of the measure are all that is necessary for the student of this time to weigh the comparative merits of the two sides to the controversy. One of the peculiar features of the campaign, however, should be mentioned. The administration faction insisted that their bill, proposing as it did an entirely new system of making nominations, must not be classed as an experiment. It must be accepted as sound in principle and any doubt as to its success in practical operation was sternly forbidden. Gov. La Follette himself gave expression to this view in his message vetoing the Hagemeister bill when he said: "The general purpose of the measure, the plain meaning of its provisions, THE CERTAIN EFFECT OF THE LAW IN OPERATION, the necessary and reasonable expense, each and all furnished theme for persistent falsification and malicious assault."

A careful reading of the literature of the period, consisting of editorials, news reports, letters from private citizens to the press, and pamphlets and circulars that have been preserved in private collections, disclosed the following specific points urged by the two parties to the controversy in explanation of their support of or opposition to the proposed law:

FOR THE AFFIRMATIVE.

1. The republican platform of 1900 distinctly and unequivocally demanded that all caucuses and conventions should be abolished and all candidates for office should be nominated by a direct vote.
2. "For many years the evils of the caucus and convention system have multiplied and baffled all attempts at legislative control or correction." The delegate elected at caucuses to represent the voter "too frequently has his own interests at heart * * * and serves his own purposes."
3. The right to vote for candidates of the party includes the right to select those candidates. The member of a party has a right to participate in the making of the party ballot.
4. The convention system of making nominations offered an opportunity which was seized upon by "men possessed of the talent of combination, manipulation, and political management," and the political machine was thus established in power.
5. The officials nominated by the machine became the servants of the machine and surrendered their judgments to its will.
6. Even at best, were the conventions to be entirely free from machine rule, they are not deliberative bodies and their work is usually done under conditions where "noisy enthusiasm outweighs the strongest argument."
7. The people "know enough to nominate their own candidates for office without the aid or dictation of bosses, caucuses and convention manipulators, and political machines."
8. "The people now elect their officers by use of the Australian ballot. In the primary election they would nominate their candidates for office by use of the same Australian ballot."
9. "When candidates are chosen by a direct vote, a coterie of

Milwaukee professional politicians can no longer hold the state in the hollow of their hands and dictate nominations to the people."

10. The primary election question has been before the people of the state a sufficient time to enable them to understand it and it was "overwhelmingly approved by the voters because they were everywhere ready for it."

11. Direct nominations under a primary election means direct responsibility to the people.

12. "Nothing is expensive that gives good government. Nothing so expensive as poor government. One set of inefficient or dishonest officials will waste more than many primary elections will cost."

13. The primary election bill was defeated by "a systematic campaign of misrepresentation. The general purpose of the measure, the plain meaning of its provisions, the certain effect of the law in operation, the necessary and reasonable expense, each and all furnished theme for persistent falsification and malicious assault."

FOR THE NEGATIVE.

1. The administration primary bill would have disorganized parties and built up personal machines.

2. In the form presented to the legislature it was unconstitutional. (This objection was urged by Senator Whitehead, but the test never has been made in the courts).

3. The development of personal machines would lead to the lavish use of money in campaigns and corruption would follow as a necessary and natural consequence.

4. It would make office seeking a profession in which experience would be of great advantage to the candidate.

5. The necessity of circulating petitions would furnish additional occupation and open a new avenue of profit to the political mercenaries.

6. The poor man would be restrained by his poverty and the modest man by his modesty from becoming candidates for nominations, even though they be well equipped to perform the duties of office.

7. Public servants would be in danger of being dragged, willingly or unwillingly, into the ruck of political activity, as they would constitute a ready made machine that could be used with almost irresistable effect in a primary campaign and the temptation to use them would be more than the average state administration could resist.

8. The system would give to the cities an undue influence in making up the party ticket because the primaries would occur at a time when the farmers would be busy and not disposed to attend. By failing to attend the primaries the farmers would lose all voice in the selection of candidates.

9. The organization of party committees for service at the primaries would furnish another machine, with ramifications in every voting precinct, and the possession of a list of these committeemen would inure to the advantage of the candidate favored by the state committee chairman. While under the old system party committeemen were expected to aid in the election of the party ticket only, in the primary election campaign and at the primary election itself the same officers would have no party interest to serve, the interests of the individual candidates for nominations being paramount.

10. The holding of primary elections would entail a large expense upon the taxpayers without any corresponding benefit.

11. If all conventions were abolished no means would be provided for the members of the party to make its platforms, that duty—and privilege—devolving on the candidates whose aim would be to get elected without regard to the principles in which the members of the party believed.

12. The voters would be required to select candidates from a list of names of men of whom, in many cases, they would have but slight knowledge, and some of whom they would not know even by reputation, and upon whose qualifications and fitness for office they could not, in the nature of things, pass intelligent judgment.

13. That party conventions, county, district and state, were the forums in which questions of policy were debated and decided, and as such they had an educative value.

14. A nomination at a primary would almost invariably be a minority nomination and would not, therefore, represent the will of a majority of the party.

15. Under the system proposed there was no way of restraining the members of one party from participating in the primaries, and aiding in the nominations of the candidates, of another party, thereby defeating the will of the majority—or even a predominant minority—of the party whose primary is invaded.

16. That where democrats participate in the nomination of republican candidates and republicans in the nominations of democratic candidates, which invariably would occur when one party had a safe and sure majority in a district, state or city, parties could not be held responsible for the official acts of public officers.

17. That party organizations, and, at the same time, party responsibility, were subordinated by the primary election plan to the personal interests of ambitious men with sufficient money or with personal organizations large enough to promise success. The party would have no way of protecting itself from any man who might contend for one of its nominations at the primary, making use of members of other parties to swell his vote.

18. That the primary election system of nominating candidates was a departure from the principles of representative government and was, therefore, not a "progressive movement," but a backward step.

19. The American system of government by parties was the only one under which a great republic with nearly a hundred millions of people could be wisely and safely governed, as parties could be held responsible for the acts of their representatives. When administrations failed or public servants were delinquent or false to their trust, the party they represented could be punished at the polls, as frequently had been done in the past.

20. The proposed law was at best an experiment, and it would be unwise to abandon entirely the old system until a trial could be made to ascertain from actual experience to what extent the new plan could be made safe, convenient and workable.

21. That where experiments had been tried with the primary election system the results had not been so uniformly satisfactory as to justify an unqualified indorsement of the plan.

22. That Wisconsin had never been a "boss ridden" state, as charged, and that there was no crying need of a radical, revolutionary movement for the banishment of a purely imaginary evil.

23. That the list of distinguished citizens who had served the state in congress, in cabinet positions, and in executive, administra-

tive, and legislative offices was a sufficient answer to the charge that "specal interests" ruled Wisconsin and that a sweeping reform was needed in the method of selecting candidates for office.

State Senator John M. Whitehead of Janesville became the stalwart candidate for the republican nomination for governor in opposition of Gov. La Follette. He did not seek the honor. On the contrary, for some weeks he resolutely refused to enter the race. He had already served one term in the state senate and had been re-elected in 1900. As a member of that body he had taken part in the movement that resulted in the establishment of the permanent state tax commission. The work in the senate was congenial to him. He was in thorough sympathy with the members of the tax commission in their desire to solve the vexing problems assigned to them and believed it was his duty to stay in the legislature where there was work to do in which he felt a lively interest and for which experience and study had qualified him.

But his fellow members of the league thought differently. They had been and were being represented as corruptionists, the political agents of "special interests," the corrupt tools and associates of corporations. They believed they could win the election and disprove the accusations by presenting as their candidate a man of tried and proved ability and integrity, one whose public and private character would bear the closest scrutiny; a man who could not be bought or intimidated; one who was not a politician in the ordinary acceptation of that term, and whose sole aim was to give his constituents the best service of which he was capable in return for the honor conferred on him; one who would not attempt to boss others and who could not be bossed. It was these considerations that induced the league membership to urge upon Senator Whitehead that he consent to become their candidate to contest the nomination with Gov. La Follette, and in the end they prevailed.

As an aid to the campaign of the league Senator Whitehead wrote a series of letters that were first printed in The Sentinel and then published in supplement form for use by the state press. In the opening series of these letters the primary election plan, as embodied in the adminstration measure defeated in 1901, was taken up and discussed at length. Like everything Senator Whitehead writes, the letters were entirely free from personalities. They were characterized by calm, judicial argument, and extended quotations from public records were made to establish the correctness of his statements and the soundness of his conclusions. As a matter of fact, the quotations were so long and the arguments so close and analytical that the letters did not make lively reading and, as a natural consequence, they did not have the effect they should have had.

In the heat of one of the most whirlwindy of all whirlwind campaigns, when he found himself being held up to public scorn

in the administration newspapers and ridiculed by cartoon in campaign textbooks and elsewhere, when passions were at white heat and no man who took part in the campaign in any capacity, much less a candidate, could escape personal abuse, these letters and the public addresses later delivered by Senator Whitehead were anachronisms. But their wholesomeness was beyond dispute. So far as he was personally concerned, Senator Whitehead conducted a clean campaign, and history must do him justice for the honorable part he played. That the voters appreciate his worth when they have an opportunity to know him well and judge of him at first hand, and not through a distorted image portrayed by prejudice and passion, is shown by the fact that he is still in the state senate, having been elected for the fourth time by his constituents in 1908.

CHAPTER XIII.

GOV. LA FOLLETTE RE-ELECTED.

Gov. La Follette was renominated over the opposition of the Wisconsin Republican league and re-elected in November. While the league did not contest his election as an organization, it was no secret that the members bolted in large numbers. In 1900 his total vote was 264,419, and his net plurality over the democratic candidate, Louis G. Bomrich, was 103,745. In 1902 his total vote was 193,417—a falling off of 71,002—and his net plurality over David S. Rose, the democratic candidate, was 47,599. But the figures showing the shrinkage of the republican vote do not give a complete understanding of the republican bolt or indicate to what extent the republican party was divided. Thousands of democrats who had been "regular" since W. J. Bryan captured the Chicago convention in 1896 were in full sympathy with Gov. La Follette and his reforms. They voted for him in companies, battalions, and regiments. They were, interchangeably, Bryan democrats or La Follette republicans, whatever the occasion might call for. And their assistance had been industriously solicited.

The plan and method by which the election was attained were new to Wisconsin politics. There was no precedent in the state for the perfect organization and efficient discipline that characterized the administration machine. With the exception of the campaign two years later, at which time both sides to the controversy had added to their store of experience in the line of campaign organization and management, and were more evenly matched in consequence, it is beyond question that the campaign of 1902 stands without a parallel in the history of Wisconsin.

The state employes, inclusive of those under the civil service rule, and large numbers of young men in attendance as students at the University of Wisconsin, were organized as a working force in the interests of the administration faction. There were times when the state house was practically deserted except by a clerical force employed in folding and mailing campaign literature. Heads of departments were in the field doing campaign work and they were accompanied by their clerks and other subordinates. Employes of state institutions contributed their share to the total amount of political work done. And in the prosecution of this campaign party lines were entirely ignored. Lists of "fair minded" democrats, as all Bryan democrats were called, were at hand and the campaign was taken to their doors both by circulars, campaign documents, and personal solicitation. The result was that Gov. La Follette was re-elected, notwithstanding a bolt that split the republican party practically in two.

At this point it is worth while to pause for a glance at one

feature of the campaign of 1902 that is not altogether sad. There is a grim humor about the incident, although it was not intended to excite merriment, that is refreshing, not to say inspiring.

It is a well known fact that Senator John C. Spooner was not a believer in the primary election plan of abolishing political evils. He had never been a politician. He had himself remarked to friends that, should he attempt to organize his own ward for an election, it would be sure to go democratic. But the people of Wisconsin had counted him as a statesman and did not require that he should develop political cunning and sagacity. They were satisfied with him as he was. He had made a record during twelve years in the upper house of congress that justified his friends in believing in his understanding of statecraft.

Senator Spooner had written a letter in 1900 in which he announced that, for private and personal reasons which it was unnecessary to explain, he would not be a candidate for re-election in 1903. At no time after giving that letter to the press had he indicated by written statement or spoken word that he was likely to reconsider the determination there expressed.

The governor was now in the saddle, absolute master of a republican convention in 1902, engineer of the most perfect political machine ever constructed in a middle western state, if not in the United States, and full of the arrogance of power. He itched to take a fall out of Senator Spooner.

The convention adopted a platform in which the following plank had a conspicuous place.

"We especially commend the official career of the Hon. John C. Spooner who, by his notably able, conservative, and patriotic course upon questions of national and international importance, has become a leader in the United States senate. We again express regret for his announced determination not to serve the state another term in the senate, and should he now find it possible to reconsider his decision *and express his willingness to stand as a candidate in harmony with the sentiment and in support of the platform principles here adopted by Wisconsin republicans in state convention, and for the election of a legislature favorable to their enactment into law, his decision would meet with the approval of republicans everywhere, and we pledge him the enthusiastic support of the party for his re-election* to the high position which he has filled with such distinguished ability and with such honor to the state and nation. And in case Senator Spooner shall not find it possible to again be a candidate for United States Senator, we demand that all candidates for this position shall indorse the principles of this platform and favor the election of a legislature pledged to enact those principles into law."

The convention then re-adopted the platform of 1900 and specifically repeated the language of the primary election plank contained therein.

There is no record evidence that Senator Spooner ever made a pilgrimage to the shrine at Madison or kowtowed to the governor as a consideration for a re-election to the United States senate. He

never promised to be good so far as the public is aware. He never became a candidate, if a withdrawal of his letter announcing that he would not stand for re-election was necessary to make him a candidate. He simply kept silent and when the time came to elect a senator the honor was tendered to him by the unanimous vote of all the republicans in the legislature.

Here was an instance where a platform pledge was ignored without any published protest on the part of the maker. If the plank quoted means anything, it means that Senator Spooner must recant, express his sorrow for his failure or refusal to give the primary election movement aid and comfort, and get out in the field and boost it along. The platform said this was the condition under which he would be spared. And yet Senator Spooner, who never even made a pretense of seeking harmony; who never, either publicly or privately, gave the proposed law his indorsement; who never even "passed the time of day" with the governor; who was not a candidate for re-election, was unanimously chosen to be his own successor under conditions that made it impossible for him to decline.

The only explanation of the incident is that at the time the convention was held, Gov. La Follette overestimated his strength, and that he later discovered he had undertaken a task he could not perform. The contract was too big for him. But one thing he did do: He gave a convincing illustration of a "boss ruled convention," an unusual thing in Wisconsin prior to 1900.

CHAPTER XIV.

THE PRIMARY BILL IN 1903.

When the legislature convened in January, 1903, Gov. La Follette had an overwhelming majority in the assembly, but he had failed to secure a majority of the senate, although he did succeed in electing ten of the eighteen new members of that body, R. Reukema having been chosen by the voters of the Fourteenth district, Milwaukee, to succeed William H. Devos, resigned to accept the post of collector of the port of Milwaukee.

The newly elected administration members of the senate were: H. C. Martin, W. H. Hatton, James H. Stout, and James J. McGillivray, all re-elected; H. P. Bird, R. Reukema, H. C. Wipperman, George B. Hudnall, Christian Sarau, and George Wylie. Ernst Merton of Waukesha, a democrat who had been elected to succeed Senator A. M. Jones, was counted among the administration supporters, as he generally voted for administration measures during the session. The hold-over administration senators were: E. E. Burns, George W. Wolff, George F. Miller, and Oliver G. Munson.

There were eleven hold-over senators who were members of the Wisconsin republican league, as follows: Henry Hagemeister, J. H. Green, Julius E. Roehr, O. W. Mosher, William O'Neil, T. A. Willy, E. D. Morse, John M. Whitehead, Frank McDonough, D. E. Riordan, and John C. Gaveney. Senators A. L. Kreutzer and Barney A. Eaton, both members of the league, were re-elected. Otis W. Johnson, C. C. Rogers, and Z. P. Beach were the newly elected conservative senators. William C. North and Samuel W. Randolph were conservative democrats and as a rule acted with the stalwarts during the session.

The lineup, therefore, was conservative republicans 16, conservative democrats 2; La Follette republicans 14, La Follette democrat 1; conservatives 18, La Follette supporters 15.

The primary election bill, a substitute for No. 97A, was reported to the assembly by the committee on privileges and elections on Feb. 2, and it was passed four days later, Feb. 6, by a vote of 70 to 19. Of the 19 votes against the bill 8 were cast by republicans and 11 by democrats.

While this may not be record time, still there are few deliberative bodies that can show better speed on so important a measure, one intended to change the entire system of making nominations of candidates. Introduced on Monday; passed to engrossment and third reading on Wednesday; reported correct by both committees on Thursday and put on the calendar for Friday; passed on Friday and messaged to the senate the following Monday.

In the meantime, it must be remembered that a number of amendments were proposed and considered—at least they were re-

jected. Assemblyman Ray, speaker of the assembly at the previous session, wanted more time to look into the measure and moved to make it a special order for Tuesday of the following week, Feb. 11, but his suggestion was voted down. When the hour came to take up the bill on Wednesday, Mr. Wallrich made another attempt to postpone action, but his motion was defeated, 62 to 36. Mr. Wallrich, by the way, had been counted among the administration men.

Then came the amendments. Mr. Ray proposed to strike out the words "state officers" and "United States senators," but his motion was defeated, 74 to 21.

Mr. Thompson moved to amend by setting the date of holding the primary in April, instead of September. Motion defeated by viva voce vote.

Mr. Crowley offered an amendment in the form of a new section providing that the voters might write in the names of their choice for United States senators on a blank line provided for that purpose. Rejected, 65 to 30.

Mr. Coffland then offered an amendment in the form of a new section as a substitute for section 22, which amendment provided for the election at primaries of delegates to attend county conventions at which delegates to state conventions were to be chosen. The state conventions were to adopt platforms for the state and congressional districts and to elect party committees. This motion was lost, no roll call being demanded.

Mr. Karel then offered an amendment making it unlawful for appointive state, county or city officers to circulate nomination papers and providing a penalty for violation of this provision. The prohibition did not apply to officers or employes who circulated petitions in their own behalf. This amendment was lost by a vote of 61 to 34.

Mr. Haderer moved to refer the bill back to the committee on privileges and elections, which motion was defeated by a vote of 68 to 28.

Mr. Haderer moved an amendment in the form of a substitute bill; his motion was lost, no roll call being ordered.

Franklin Johnson's motion to refer the bill to the committee on judiciary was voted down.

Mr. Osborn then moved to amend by providing that state officers be exempted from the operations of the bill, which amendment was lost by a vote of 82 to 12.

The previous question was then moved by Mr. Barker and carried by a unanimous vote, and the bill was ordered to engrossment and third reading by a vote of 76 to 20.

The following day the bill was reported correct by the two committees, and on February 6, four days after its introduction by the committee, it passed the assembly by a vote of 70 to 19.

It is clear from an examination of the vote on the several amend-

ments that there were a number of members of the lower house among those who voted for its final passage who believed the measure could be improved, but the administration organization stood solidly against any and all changes. It was determined to "put it up to the senate" in its original form, and there were votes enough in the house to follow out the administration program to the letter. The appeal to the voters against the action of the senate in 1901 had succeeded because all the radicals in the state had been united in a common cause. It was believed that, should the senate repeat its action of two years before, another appeal could be made with equal success, and success at the polls was the thing most to be desired.

On February 9 the primary bill was messaged to the senate from the assembly and referred to the committee on privileges and elections, consisting of Senators Morse, Miller, Martin, Munson, and Whitehead, three administration men and two stalwarts. This committee held the measure for consideration from that date until March 26, on which day they reported it with certain amendments relating to the publication of notices to be made by county clerks, the percentage of voters required on nomination papers, and the notice to be given by the secretary of state to county clerks.

After the report of the committee had been read, Senator Whitehead moved that all rules interfering with the immediate consideration of the bill be suspended, which motion prevailed. Senator Hatton alone voting in the negative. After several fruitless attempts had been made by Senators Miller and Martin to secure an adjournment until evening, amendments by individual senators were presented.

Senator Kreutzer offered an amendment in the form of a substitute—the senate journal does not disclose its nature—which was rejected, only four senators, Hatton, Kreutzer, North, and Randolph, voting for it.

Senator Rogers submitted an amendment striking out the members of the state legislature from the list of officers to be nominated at the primary, which was rejected by the entire vote of the senate with the single exception of Senator Rogers himself.

Senator Gaveney then offered an amendment in the form of a referendum section which was different from any that previously had been suggested. He proposed to submit to the voters at the election to be held in November, 1904, the question of applying the primary plan to the nomination of candidates for elective state officers, congressmen and members of the state legislature, the bill to go into force immediately so far as it related to elective city and county officers. The call for the yeas and nays on this amendment resulted in the first "lineup" vote on the primary question of the two factions in the senate, as follows:

Yeas—Senator Beach, Eaton, Gaveney, Green, Hagemeister,

Johnson, Kreutzer, McDonough, Morse, Mosher, North, O'Neil, Randolph, Riordan, Roehr, Rogers, Whitehead, and Willy—18.

Nays—Senators Bird, Burns, Hatton, Hudnall, Martin, McGillivray, Merton, Miller, Munson, Reukema, Sarau, Stout, Wipperman, Wolff, and Wylie—15.

Senator Whitehead then moved that "all rules interfering with the concurrence of No. 97A at this time be suspended," which motion was carried with but three senators voting in the negative. They were Senators Hatton, McGillivray, and Munson. The bill was then read a third time and concurred in as amended, the vote being the same as the one by which Senator Gaveney's amendment was adopted.

March 27 the bill was messaged to the assembly which, on March 31, concurred in all the senate amendments with the exception of the referendum section proposed by Senator Gaveney. It was returned to the senate on April 1 by message and that body voted to adhere to the amendment by a vote of 19 to 14, Senator Bird acting with the stalwarts when the question was put. The bill was then messaged back to the assembly and that body, on motion of Mr. Ray, refused to recede from its position and asked for a conference. Senators Morse, Whitehead, and Beach were appointed to represent the senate and Messrs. Andrew, Frear, and Le Roy were appointed as conferees for the lower house.

CHAPTER XV.

Why the Bill Was Passed.

The action of the state senate, while it received the support of the entire stalwart membership of that body, was not in accord with the judgment or wishes of the more conservative members. There was a disposition on the part of several senators, of whom Senator Whitehead was the most positive and uncompromising in his opinion, to defeat the measure, and they had the votes to do it if that plan had been decided upon. But other counsel prevailed.

It is a well known fact that the stalwart faction lacked leadership during the years 1901, 1902, and 1903. There was no "boss." The wing of the republican party represented as defending the caucus and convention system in the interests of the "bosses" could not produce one solitary boss in its hour of need to lead it in a campaign. It was not because there were no men of ability in the stalwart ranks. In point of fact it was charged at times that there were no privates in the opposition army—they were all major generals. There was an abundance of material for leadership, but no leader.

At the time the primary bill was passed in 1903 the lines between the factions had been sharply drawn and the two United States senators and certain members of congress had found themselves, without any overt acts of hostility on their part, forced into the anti-administration camp. Among the latter was Representative Babcock, probably one of the best equipped political leaders in the nation and one of the men who had aided Gov. La Follette in his campaign for the nomination in 1900. Mr. Babcock had then served nearly ten years as chairman of the republican congressional committee and he had won golden opinions from the members of congress whose interests he had protected in several campaigns. But he made no attempt to organize the opposition to Gov. La Follette largely because of his respect for the amenities which require that the senators be first consulted when the interests of the party in the state become a subject of discussion and controversy.

Other republicans were restrained by the same considerations from volunteering to take upon themselves the management of the campaign, which explains why the stalwart forces were, in fact, an army of volunteers without officers or organization during those eventful years. There was complaint from members of the legislature of the failure of the national leaders to line up an effective organization against the encroachments of the governor. When the legislature met there were almost as many opinions as to the proper course to pursue as there were stalwarts in the two houses and it was discovered that it would be impossible to agree upon any line

of action unless the United States senators and members of congress openly allied themselves with the members of the party at home with whom they were known to be in sympathy.

In this emergency a messenger was sent to Washington for the purpose of explaining the situation to the two senators and the members of the lower house, particularly Congressman Babcock, and get them to agree upon some line of action. Senator Quarles out of deference to Senator Spooner's seniority, declined to move without the express sanction of the latter, but he signified his willingness to do his full duty in the work of redeeming the party in the state from political disruption. Mr. Babcock took the same position, arguing that it was the senior senator's place to either lead the party himself or consent to the selection of some other person to assume the responsibilities as well as the labors of leadership. There was conference after conference, Senator Spooner's well known distaste for practical politics, together with his disinclination to authorize another, however able and willing to lead, to speak and act for him, making it impossible for days to come to an understanding.

The final outcome of the conference however, was that Mr. Babcock was delegated to come to Wisconsin and assume the leadership of the stalwart, or conservative republicans. One of the conditions laid down by Senator Spooner before the arrangements were completed was that the primary election bill with a referendum clause was to be passed by the state senate. It was agreed that the two United States senators and the members of congress who were not in accord with Gov. La Follette were to take an active part in the next campaign for the purpose of defeating the bill when it was presented to the people for their indorsement by popular vote.

Having succeeded in the mission that took him to Washington, the messenger returned to Wisconsin and reported. He was followed in a few days by Mr. Babcock who established himself at Madison and undertook to advise the stalwarts in the legislature as to the course they should pursue. He assured the stalwart senators that they could count on the co-operation of Senators Spooner and Quarles, as well as certain congressmen of whom he was one, and that an earnest effort would be made to perfect a real organization, one that could go into a campaign with a prospect of winning.

With this understanding the stalwart members of the state senate agreed to carry out the plan proposed by Mr. Babcock, as originally outlined by Senator Spooner, although Senator Whitehead and others were not convinced of its wisdom. Mr. Babcock assumed the responsibilities of the position assigned to him by the other leaders and it was by his direction that the primary bill, objectionable as it was to the stalwart state senators, was passed

practically in its original form with the referendum section attached.

The conference of the two houses on the primary bill did not accomplish anything. The members agreed to disagree as the final outcome of several meetings, and the assembly solved the problem by changing or amending the Gaveney referendum amendment in a manner to meet the approval of the senate. The change made was merely to submit the entire question to a vote of the people at the general election in November, 1904, instead of submitting the question of applying the law to the nomination of state and legislative candidates only. This action was taken on May 19, and the senate concurred in the amendment on May 20 by a vote of 26 to 3, Senators Hatton and two democrats, Merton and North voting against it. Senators Hagemeister, Kreutzer, Randolph, and Wolff were absent.

But, between the time the conference committees were appointed and the passage of the bill by the two houses, a new record was made up. It should be remembered that about every conceivable amendment to the measure had been offered and rejected by the assembly at the time the bill was considered under special order. Also other bills, introduced by individual members who believed it had been given them to see the proper solution of the primary election problem, had been killed from time to time by both houses. In this way the entire ground had been covered, apparently.

But the assembly conferees came to the meeting armed with six distinct propositions, all embodying amendments that already had been acted on by one or both houses of the legislature. They insisted on having their propositions considered, but the senate conferees replied that all of these propositions had been presented to and voted down already, and were not, therefore, proper subjects of consideration by the conference committees. An adjournment was then taken and at a latter meeting a seventh proposition was made by the assembly conferees, which was rejected by the senate conferees for the same reason that they refused to consider the first six offers of amendment.

Meanwhile, the minutes of the meetings were carefully kept and the investigator of the subject will find in the assembly journal for that year, pages 902 to 911, the entire story as it was reported by the committee of that house together with the seven propositions in detail. The record there made up is as complete as could be desired by the most technical writer of campaign literature—with one exception. The stalwarts had learned their lesson in 1901 and they were not caught without a record of their own. They had made all the propositions now presented by the administration committeemen and had written them into the official record. Their propositions had been rejected. They now replied

that these amendments had been considered and rejected by the legislature; they could not be presented again at the same session. At least, the conference committee could not consider amendments that have been disposed of finally.

Whatever the judgment of the student of events may be at this time of the action of the two houses on the primary bill in 1903, it can not be said that the stalwarts made any tactical blunders in their management of the measure either in the two houses or in conference. They did not aid in the manufacture of material to be used against them in the campaign the following year. The question in that campaign was put "up to the people" themselves and the literature circulated during the campaign by the administration organization did not, because it could not, truthfully charge the stalwarts with repudiating platform pledges in that respect at least. They had given the voters an opportunity to speak for themselves at the ballot box.

CHAPTER XVI.

Arbitrary Usurpation.

As has been explained, it was the intention of the stalwarts to make the primary election measure the main issue in the campaign of 1904. It was believed that, by concentrating on this issue, by conducting a vigorous stumping campaign led by Senators Spooner and Quarles, and by circulating literature explaining clearly the character of the proposed law, many who had been indifferent to the movement and others who had supported it could be convinced of its unwisdom and induced to cast their votes against the approval of the bill.

But these well laid plans came to naught. The factional feeling, the personal animosities—the poison in the political blood of the state that had been growing more deadly in its malignity during the four years of strife—reached a climax in the spring of that year.

Wisconsin had been sowing the wind of malice; it now reaped the whirlwind of hate. It had been planting suspicion and distrust; it now came to the harvesting of corrupt practices such as had never even been dreamed of. It had been scattering abroad the seeds of revolution; it was only prevented from garnering a crop of violence and bloodshed by the moderation of a large element of its people who had not yet lost their ability to reason and their respect for the law.

The republican state convention met at Madison on May 18, 1904, on a call issued by a majority of the members of the state central committee and against the protest of a minority of that body. At this convention was made the crucial test of the ability of citizens of Wisconsin with red blood in their veins to avoid the natural consequences of acts calculated to provoke a breach of the peace. The history of that convention is written in hundreds of pages of sworn testimony, official records, duly authenticated minutes of convention proceedings, and signed reports of committees. It is unnecessary to go into detail here, but a brief narrative outline of the events that brought about the subordination of the primary election issue to more important interests is required to make the history of that issue clear and definite in the minds of the reader.

It had been customary in years when presidential elections occurred to hold two state conventions, one in the spring for the election of delegates and alternates to the national convention and the nomination of an electoral ticket; the other in the summer to nominate a state ticket and adopt a state platform. In this way state issues were kept out of the convention that was called upon to deal only with matters of national interest.

For the first time in the history of the state these two functions were combined and one convention was called to perform both

offices. This was done in violation of party precedent and against the protest of a minority of the state central committee and many republican newspapers. There was no public demand for the change; there was no public sentiment in its favor; no interests of the people were to be served; no reform could be accomplished by and no valid excuse offered for the action of the majority of the committee in thus arbitrarily and without authority overriding the customs and established practices of the party.

When the convention met it was found that out of 1,065 delegates entitled to seats in the convention, 955 held credentials that were on their face valid and sufficient to entitle them to seats in that body and to participate in the work of organizing the convention. Of that number 496 1-6 were anti-La Follette and 458 5-6 were La Follette delegates.

These men were entitled to organize the convention and pass finally upon the validity of the claims of the delegates whose seats had been jeopardized by the careless officers who had bungled the work of making out credentials. There were thirty-nine La Follette delegates present with defective credentials and eleven anti-La Follette delegates were in the same predicament. In each of these cases the irregularity was not important or fatal and the admission of all of these delegates would have raised the respective votes of the two factions to 507 1-6 stalwart, 497 5-6 La Follette, with the stalwarts still in the majority.

But the state central committee majority, made up of sixteen rabid La Follette factionists, eight of whom were officeholders, determined to organize the convention themselves. They threw out the eleven stalwart votes on a trumped up contest and seated the thirty-nine La Follette delegates. They then, on contests that were clearly fradulent and unfair, unseated forty-four delegates that held regular credentials, five of whom had been elected by direct vote in the Second ward of Milwaukee, and seated in their places delegates who held no credentials of any character. In only one case was a pretense of fairness attempted. This was the case of St. Croix county, where a contest—the only one—had been brought by the stalwarts, and in which case the committee reported in favor of dividing the vote equally between the legally elected stalwart delegates and the illegal La Follette claimants. In this way the roll of the convention was made up. No opportunity was given the convention to pass upon the qualifications of its own members, which it had a right to do. The majority of the committee usurped that right and exercised it arbitrarily.

But it was deemed necessary to adopt radical measures to carry out this high handed proceeding—and it was done. A sergeant at arms was appointed who would do as he was told. What his instructions were does not appear as a matter of record, but his acts are eloquent on that point. He requested the chief of police of Madison and the sheriff of Dane county to appoint a large number

of special officers to guard the convention and enforce order while the outrage was being perpetrated. The police chief, H. C. Baker, refused to comply with the request, but the sheriff was convinced that a riot was imminent and he commissioned a large number of deputy sheriffs to serve for this special occasion. These, together with the assistants to the sergeant at arms, guarded the convention. Among these deputies and assistants there were athletic partisans of the governor, state game wardens, oil and factory inspectors, football players from the university, at least one professional athlete, and men with police records. There are affidavits on file to substantiate these statements if any evidence is needed to convince readers of their truth.

The gymnasium building on the university grounds was prepared for the occasion with great care. All doors leading to that part of the building to be occupied by delegates were closed, locked, and braced in a substantial manner, with one single exception—a small door at the side of the building. A wire partition was erected between the delegates' portion of the hall and that occupied by the public. A "runway" was constructed of lumber leading from a point eighteen feet from the outside of the single narrow entrance to a point eleven and one-half feet inside the building. Along this runway, or passage, was posted a double line of muscular deputies and assistants numbering, according to one affidavit, at least forty.

Through this double line of guards the delegates were required to pass, and the passage was not a simple matter. Every person entering the runway was forcibly seized and his badge examined. He was roughly treated, manhandled by men appointed for that purpose, and in some cases he was forced to submit to language that was calculated to raise his temperature to fever heat. In this way the administration supporters testified to their respect for the representatives of republican voters who had been regularly elected to attend and participate in a republican state convention.

It should be remembered that the badges worn by the delegates and examined over and over again as the victims worked their way laboriously through the double line of guards had been furnished by the state central committee. The regularly accredited delegates, sent there by republican voters to represent them, but whom the majority of the committee had determined to unseat, were not given badges and could not enter the building. They were not even admitted to that part of the hall assigned to the public as the tickets to that section also were carefully vised and passed out only to favored citizens. It was to prevent the entrance of the unseated delegates that the 100 or more men were employed as a force sufficient to enable the conspirators to successfully carry out their plans.

Subsequently a weak attempt was made to explain that an out

break on the part of the stalwarts was feared, but there was no warrant for such a belief. It had been publicly and freely talked for days that, if the majority was refused its right to organize the convention, there would be a "walk out" and a second convention. Badges had been printed on which the word "Hiker" appeared in prominent type. All the world knows that the word "hike" means to "walk." Furthermore, on the evening before the convention was called to order at the gymnasium a meeting of the stalwart delegates was held at the Fuller opera house. At that meeting M. G. Jeffris of Janesville, one of the stalwart leaders, in an address outlining the program agreed upon, said:

"I know you feel intensely upon this subject, but remember that when this body of delegates goes to the state convention we go as gentlemen. Remember that the eyes of the people of the state are upon you. Every man is called upon to suppress his feelings regardless of the indignities that may be heaped upon him and conduct himself as a gentleman so that when this matter is over everybody will be compelled to say that, while we insisted on our rights and shall insist to the end, yet at no time did we do any act that was not the act of a gentleman. We will go to that hall; we will insist that the delegates who have been duly elected and accredited to that convention be admitted to the floor of the hall. We will insist upon our rights, but we will have them in such a manner that the people at large will say that we acted as gentlemen."

They went as gentlemen and they were gentlemen to the end. Not one act of a stalwart; not one word even under the most humiliating personal insults while being pawed over at the door by administration bullies or, after entering the hall, where they were browbeaten and insulted by administration factionists, could be objected to as undignified or ungentlemanly. They presented their demands for a hearing in the strongest possible manner, appealing without hope for justice and fair play, and when they were voted down, or declared out of order—as was usually the case—they withdrew and organized a legal convention with a majority of the legally elected delegates in attendance. Whenever a vote was taken on a point raised, or a motion made by a stalwart delegate, the delegates illegally seated by the state central committee voted, as well as the assistants to the sergeant at arms and the deputy sheriffs when the roll was not called.

As an illustration of incidents occuring prior to the withdrawal of the anti-La Follette delegates, two brief excerpts from affidavits subsequently filed will suffice. One is from a sworn statement by W. F. Loomis, a La Follette delegate who did not withdraw but remained in the gymnasium convention until the end because he had been instructed by his constituents to vote for La Follette. Mr. Loomis later made a voluntary sworn statement in which he said, among other things:

"That on getting there (to the delegate entrance of the gymnasium building) he found that all doors of admission to that part of said hall, alloted to delegates were barred except a side door, which was guarded by at least forty persons, some of whom wore badges upon which were printed 'Deputy Sheriff'; others wore badges reading 'Assistant Sergeant at Arms,' and the remainder were dressed in policemen's uniforms. A double file of such guards was arranged extending some distance outside and inside of said doorway, so that in order to enter said convention hall it was necessary for the delegates to pass single file between said two lines of guards. Each member of said guard, in turn, grasped and took by the arm or clothing in a rude and insulting manner, ostensibly for the purpose of examining said badge to see that it entitled the person wearing it to admission to said convention hall. That this deponent saw one man who wore his badge on his vest instead of on his coat and he was refused admission until he put said badge on his coat.

"Deponent further says that all of said guards were strangers to him, that they were all large muscular men, of heavy build, and evidently selected because of their physical strength. That on the inside of said convention hall, scattered around the sides of the building and in the aisles, were a great many persons of a similar description, wearing badges upon which was printed 'Assistant Sergeant at Arms.' Not less than sixty of said guards and assistant sergeant at arms were in that part of said hall allotted to delegates. That the deponent noticed said guards applauded La Follette's speakers and delegates and saw them repeatedly hiss, hoot and groan at anti-La Follette delegates speaking in said convention."

Spencer Haven, an anti-La Follette delegate from St. Croix county who was admitted to the convention with one-half vote, swore to the following facts:

"That on the inside of the convention hall, and scattered along the aisles and around the sides of the building allotted to delegates, were a great many persons of a similar description, wearing badges on which was printed 'Assistant Sergeant at Arms.' That during the proceedings of the convention upon votes taken viva voce they voted invariably with the La Follette faction, and in so voting, added their vociferous voices to the vote of said faction. That there was as many as a dozen of such persons so labeled 'Assistant Sergeant at Arms' in the immediate vicinity of that part of the convention where this deponent was sitting, and their conduct was such in voting upon questions that came before the convention as to attract the attention of deponent and other delegates sitting near him, and finally some one of said delegates, in the presence and hearing of deponent, asked these persons, so labeled 'Assistant Sergeant at Arms,' whether they were delegates of the convention, and they replied 'Yes,' and that they were voting, and also remarked that they could vote louder than deponent and the other delegates sitting near him could."

Before the convention was organized M. B. Rosenberry, a member of the minority of the state central committee, made a request of the chairman, Gen. Bryant, that he, Rosenberry, be recognized by the temporary chairman of the convention for the purpose of presenting a minority report of the state central committee, signed by six members. He was told to make arrangements with I. L. Lenroot who was to be temporary chairman, which he did, and was

given a promise that he would be recognized immediately after the close of the temporary chairman's address. Mr. Rosenberry took a seat on the platform eight or ten feet to the left of, and behind the stand at which Mr. Lenroot stood when he addressed the convention. As he sat down he was surrounded by three persons, strangers to him, each a noteworthy example of physical prowess and each wearing a badge that indicated that he was an assistant to the sergeant at arms. These three men refused to allow Mr. Rosenberry to move or change his position at any time, but forcibly held him in his seat until Mr. Lenroot had finished his address. At the appointed time Mr. Rosenberry arose to his feet, with his guards still clustered about him, although he had explained to them who he was and that he had the consent of Gen. Bryant and Mr. Lenroot to his presence. In spite of this explanation, and although Mr. Rosenberry had several times requested his guards to cease interfering with his freedom, they persisted in their surveillance over his acts. On this point Mr. Rosenberry said in his affidavit:

"It was impossible for him to move without personal encounter; that by reason of the fact that it was a time of great excitement and high tension, this affiant preferred to bear the personal humiliation incident to such insulting conduct on the part of said persons rather than precipitate a personal struggle * * * and this affiant is informed and verily believes that said persons were engaged in such insulting conduct by the direction of their superiors, and that their action was part of a preconcerted plan to deny affiant, along with other anti-La Follette delegates, the common courtesies and rights of delegates in a republican convention."

It may be added that, when Mr. Rosenberry had completed the reading of his report and attempted to move that it be substituted for the majority report, he was seized by his guards and forced into his chair.

The affidavits which establish beyond controversy the details of this most high handed proceeding fill a large volume and they are all of the same tenor. They tell of personal insults, exasperating taunts, and actual physical violence, all calculated, if not deliberately designed, to lead to physical resistance and bloodshed. In point of fact, there are few states where such proceedings would not have brought about an outbreak of hostilities and a resort to mob law.

But the stalwart majority restrained themselves—to their everlasting credit be it said—and submitted with dignified composure to the repeated acts of injustice, and worse, that were inflicted upon them by the minority supported by physical force, ostentatiously displayed. The addresses made to the convention by M. B. Rosenberry, M. G. Jeffris, and E. R. Hicks were models of convention oratory, appealing as they did to the sense of justice that ought to have actuated the administration faction. Their appeals were met with taunts by the minority speakers, and they withdrew from the convention.

CHAPTER XVII.

The Conflicting Decisions.

At the convention held in the Fuller Opera house the same evening a committee on credentials was appointed to which was delivered the record of the credentials secured by the minority of the state central committee. The copies of the credentials were examined by the committee and all cases where contests had been filed were presented to and acted upon by the convention itself. When this work was completed and a vote was taken it was found there was present in the stalwart convention, and voting, 567 duly elected republican delegates, or a majority of sixty-nine votes of the entire number legally qualified to sit in a republican convention.

This majority then proceeded to nominate a state ticket at the head of which they placed the Hon. S. A. Cook as the republican candidate for governor. Senators J. C. Spooner and J. V. Quarles, Representative J. W. Babcock, and the Hon. Emil Baensch were elected delegates to the republican national convention. A platform was adopted and a state central committee chosen. In order that, so far as was practicable, the split in the party might be confined to the state ticket and prevented from affecting the candidates on the national ticket, arrangements were made to name as presidential electors the men chosen at the gymnasium convention.

As a part of the platform adopted by the convention held at the Fuller opera house—which platform was not printed in the blue book the following year among other platforms of all parties—the following plank is found:

"Seventh—The last legislature enacted and has submitted to the people to be voted upon at the general election a proposed primary election law. This law proposes a radical change in the nominating procedure of all parties, and affects every elector in the exercise of one of his functions, and we approve of the action of the republican senate in declining to put into immediate operation by a majority vote of one party such a law, without first giving an opportunity to all the voters of the state, each voter upon his own responsibility and conscience to pass upon it at the polls. It has passed the platform stage. If it shall not be the will of the people to do away with all conventions in the future, we favor the enactment of such legislation as shall provide specifically for the election and accrediting of delegates, and the legal effect which shall be given to credentials duly executed, to the end that it shall be impossible for any power but the convention itself to overrule the prima facie title of delegates and turn preliminarily a majority into a minority."

The convention that continued in session at the gymnasium building also adopted a platform in which was placed a primary election plank which reads as follows:

"We indorse and approve the administration of Gov. Robert M. La Follette as conspicuously able, honest and economical. Through

his fearless, conscientious and statesmanlike advocacy of a faithful compliance with party promises and against the most malicious and corrupt opposition, a primary elector, employer, employe, will, in accordance with just principles of government, without coercion or intimidation, be able to express his true conviction at the polls. We regret that the opponents of this measure, in violation of the party's most sacred promises and three times repeated in its platform, have thus far been able to postpone the operation of the law, and we denounce such action on their part as a breach of good faith to their constituents and as treason to the republican party. We heartily commend the primary election law proposed by the last legislature to all fair minded citizens, regardless of party affiliation, for their approval at the polls. This measure should stand above partisan consideration as going to the ground work of popular government. The campaign leading up to this *convention must illustrate to all citizens of Wisconsin the difficulty of securing a true expression of the popular will under the present caucus and convention system, when private interests conflict with public welfare.*"

When the contesting delegation elected by the gymnasium convention, R. M. La Follette, Isaac Stephenson, J. H. Stout, and W. D. Connor, appeared before the national committee in Chicago, a full and fair hearing was given them. Six hours were consumed in listening to the arguments of the attorneys for the two sets of delegates; certified copies of all the credentials were at hand: the minutes of the two conventions and affidavits of all parties who had anything of importance to say bearing on the case were examined, questions were asked and answered, and the committee decided unanimously in favor of the legality of the anti-La Follette convention and recommended that the delegates elected at that convention be seated.

The matter was then referred to the committee on credentials appointed by the national committee and the evidence was all laid before that body. The attorney for the La Follette delegates, however, did not make an argument, contenting himself with filing a statement to the effect that he believed the committee was prejudiced and that his clients would not receive a fair hearing. The committee spent a part of one afternoon, the evening, the night, and a part of the next forenoon in examining the evidence in the case. The matter was thoroughly and impartially examined into and the decision of this committee was the same as that of the national committee. The vote to recommend that the stalwart delegates be seated was unanimous.

The republican national convention finally passed upon the merits of the contest and, by a practically unanimous vote, seated John C. Spooner, Joseph V. Quarles, Joseph W. Babcock, and Emil Baensch as the regularly elected and duly qualified delegates from Wisconsin.

Having secured a decision from the national committee, the committee on credentials of the national convention, and the republican national convention itself, there still remained the neces-

sity of appealing to the Supreme court. Walter L. Houser, an uncompromising partisan of the governor, was secretary of state and it was his duty to make up the ballots to be used at the election in November. All who were acquainted with the secretary did not stop to question what his course would be. They knew he would ignore the decision of the national convention and place the names of the candidates nominated at the gymnasium convention on the ticket as the regular republican nominees. Certain formal steps were taken to induce him to accept the republican national convention as the highest authority in the republican party and the Supreme court was asked to order him to comply with the request.

The decision of the court, handed down on Oct. 5, one month before the election was a peculiar one. This decision was written by Justice Marshall, a dissenting opinion being filed by Chief Justice Cassoday, who held that the court had jurisdiction and that the nominees of the Fuller opera house convention were the regular nominees of the republican party. A majority of the court, however, held that, under the statutes, the republican state central committee was the only body that had jurisdiction to determine the regularity of its own proceedings or the proceedings of a republican convention. In other words, it was the supreme authority in the state; it could, if it decided to do so, ignore the decision of the national convention. It had a right to usurp authority that belonged to the convention itself, and, should its action be impeached, it could hear, try, and determine its own case.

This is not to be taken as a criticism of the Supreme court's decision. It is merely intended as a comment on the remarkable statute construed by the court when it rendered its decision. The court is entitled to and must always be accorded the most profound respect. It is permitted, however, to condemn a law that furnishes a statutory warrant for an outrage on justice and political morals. A law that will rob the majority of any party of the fruits of victory by permitting a minority to govern, is not a good law. The result of the election disposed of that law, as no delegates are elected now, and the offending statute may be permitted to rest in peace.

It is not surprising that, in the midst of a controversy like the one described the primary election law was, in a measure, lost sight of. Senators Spooner and Quarles, M. G. Jeffris, J. G. Monahan, and other speakers referred to it in their addresses while stumping the state, but there were other matters of more recent birth that called for explanation at length. Only brief and occasional mention was made of the proposed law in the literature circulated by the stalwart central committee. The campaign was in fact, one of personalities, as is always the case in factional party, as well as in family quarrels. It thus came about that an issue which had been fought over and discussed at length for three

years was practically smothered at the time it came up for final approval or defeat at the polls.

The result was that the primary election measure was indorsed by the voters at the polls by a majority of 50,507. The total vote cast on this question was 210,891, while the total vote cast for all candidates for governor that year was 449,570, of which Gov. La Follette received 227,253, and George W. Peck, the democratic candidate, 176,301. The total vote on the primary election question was less than one-half the vote for governor; it was less by 16,362 than the vote for La Follette; it fell 11,416 short of the combined vote against La Follette. The vote in favor of the measure was 96,554 less than the La Follette vote, and the vote against it fell short 142,125 of the combined vote against La Follette.

Following the decision of the Supreme court, the stalwarts lost all semblance of an organization and their forces were divided as a natural consequence. Large numbers voted the democratic ticket. Others, who could not overcome their republican training, voted for the La Follette ticket on the score of regularity as laid down by the court. The original stalwart candidate, S. A. Cook, had withdrawn from the race and Maj. Edward Scofield, former governor, had been placed on the ticket, but no pretense was made of supporting that ticket. Maj. Scofield himself asked republicans to vote for Peck. A bare 12,136 old line republicans could not bring themselves to the point of voting for a democrat or for La Follette and they voted for Scofield against his protest. Thus the governor was re-elected for a second time and the primary election law was indorsed by the people.

CHAPTER XVIII.

Questions That Must be Answered.

The questions to be answered by the people of Wisconsin at this time are: Is the primary election law worth what it has cost the state in money and bad blood? Has it fulfilled any of the promises of its advocates? Has it dethroned the political boss and destroyed the political machine? Have the political morals of the state been elevated by it? Has it improved the personnel of the office holding class? Has the public service been benefited by its operations? Has it made corrupt practices in the nomination of candidates more difficult? Has this law, which was recommended as "going to the very groundwork of popular government" by giving the voter a direct voice in the nomination of candidates, resulted in any benefit, direct or indirect, to the voter himself? Has it brought the government "closer to the people?" Are the people's liberties more securely guarded? Are the people better governed since that law went into operation?

If these questions, or any of them, can truthfully be answered in the affirmative, let no man lay impious hands upon that law. If a negative answer must be given, the statute should be changed to correct the mistakes of its authors. This is all there is to the matter. No partisan or personal interests, no factional considerations, must be permitted to postpone the work of framing the needed amendments, nor should the remodeling of the law be taken up in a spirit of controversy. There has been enough of controversy; enough of crimination and recrimination; enough of factional strife. The time is come when cool, calm reason should hold sway and the work of real reform must be undertaken with the sole aim of adjusting the law regulating the nomination of candidates to the needs of the state as indicated by the experiences of the last twenty years.

The primary election law was not the cause of the factional war that has made the last decade a memorable one in the state. It was merely an incident, one of several, that made the controversy peculiarly exasperating by reason of the bitterness with which the issues were supported and opposed. But, under its influence and by reason of the opportunities it offers for personal politics, the work of party disintegration is going forward at an alarming pace and there is urgent need of some means by which order may be brought out of the prevailing political chaos and government by parties—real representative government—restored to the people of the state.

Government by parties and government of parties by the members of the parties themselves are essential to the perpetuity of our institutions. Government by individuals, however able, in-

evitably spells despotism. Party responsibility on the one hand and a wise distribution of powers between the co-ordinate branches of the government on the other are the means by which the necessary checks and balances are provided for the protection of our rights and as a guaranty of our liberties.

The overthrow of parties through the ascendency of the individual destroys party responsibility. Party organization and party leaders disappear with party principles, and individuals take their places with organized personal followings bearing the motto, "Anything to win," as their most sacred principle. The discussion of real principles is lost in the public exchange of bitter personalities. Even factional strife, deplorable as such a condition must be, is soon displaced by something worse—personal contests for power. This is not a theory; it is a plain statement of fact based upon recent experiences in this state.

Wisconsin has reached a stage in the development of personal politics where parties are a negligible quantity, and the primary election law has contributed to this result by putting a premium on office seeking through direct personal effort, unflagging energy, self advertising and a liberal expenditure of money. This condition is illustrated by the city of Milwaukee. In 1898, after the municipal election, there were filed under the corrupt practices act 175 expense statements by candidates, amounting in the aggregate to $8,280.93. Of this amount $2,669.49 was contributed to ward clubs and committees by the candidates. Following the municipal election in 1908, ten years later, the expense statements filed, 274 in number, amounted to $50,479.49, but there were no contributions to ward clubs because there were no ward clubs.

Where are the Wisconsin political clubs of former years? They have disappeared with the political parties they were organized to support and assist. There is not at present writing in the city of Milwaukee one effective club organized to work for the success of a political party. There are personal organizations, or clubs, designed to advance the political fortunes of some favorite leaders and made up for the most part of followers who hope to profit by the success of those leaders, but there are no party ward clubs composed of business and professional men whose sole aim is to work for the triumph of party principles in which they believe.

Under the old system of making party nominations in conventions composed of representatives of the voters of the party, the party could and was held to a strict accountability for the acts of its officers. It therefore selected its candidates with some degree of caution. It is true that large sums of money were expended in some of the campaigns in electing, or trying to elect, party tickets. This money was expended by party committees and the fund was derived from contributions by members of the party. The nominees of the party usually contributed to this fund according to

their ability, but the largest part of the fund came from members of the party who were not candidates for office.

When an officer was elected in this way, the party paying the expense, he was accountable to his party for his official acts and his party was responsible to the people. The contributions to the campaign funds were not as a rule made with a great amount of publicity. In point of fact, it was seldom that the candidates knew to whom the party was indebted for contributions to its campaign fund. The hands of state, county, or legislative officers were not tied by financial obligations of any kind. No demands were ever made upon officers in this state for favors based upon campaign contributions to parties.

Under the primary system all the money contributed to a primary campaign must go directly to the individual seeking the office or his agent, and, while there may be no contract in definite terms between candidate and contributor with respect to a quid pro quo, should that contributor's interests become involved at any time in such a manner as to require official action on the part of the candidate who has been favored, it is not difficult to guess what would be the result. However honest he may be, the official is likely to stretch a point in order to favor a friend who has placed him under obligations. He will not care to be classed as an ingrate.

Much has been said in the past about the influence of large corporations in politics. The most effective way in which those great industrial and commercial bodies can wield an influence in political circles is by the use of money. The easiest way to use money in politics is to place the individual officeholder under direct obligation to the contributor. The primary election law offers an ideal opportunity for the use of money in this way. Should the big corporations feel so disposed they have an opening now by which they can enter the political field in Wisconsin and rope, throw, hog tie, and brand a large number of public officers by a judicious use of corporate funds. As it stands, the law not only permits, but forces candidates to spend large sums of money in primary campaigns. As the emoluments of public office are not as a rule so liberal as to warrant the expenditure by a candidate of a king's ransom in the effort to secure an office, there is an opening for the generous contributor, be he personally interested or merely a representative of a corporation, to step in and offer to carry a part of the burden.

CHAPTER XIX.

THE COST OF A CAMPAIGN.

It cost candidates in the city of Milwaukee $50,479.49 to run for office in 1908 with the primary election law in operation. It cost but $8,280.93 in 1898 when the primary law was not in operation. The difference, $42,198.56, it will be conceded, is a heavy tax to place upon candidates for office. It is true there were more candidates running for office in 1908 than in 1898, but that is merely another illustration of the operations of the new statute. So far as the operations of the corrupt practices act are concerned it may be said that when that law was new it was respected and obeyed by a large percentage of the candidates for office. The only material change made in the law since 1897 has been to require the district attorney to demand statements from candidates who have failed to comply with its provisions after a certain period.

As an indication of the effect of the primary election law on the expenses of candidates for office the following tables compiled from the records in the offices of the city clerk of Milwaukee, the county clerk of Milwaukee county, and the secretary of state, will serve. The year 1904 was the last convention year in which candidates were nominated under the old Milwaukee primary law in both city and county, and 1906 was the first primary election year. It should be explained that one important statement, that of Mayor Rose, has been lost from the files for the year 1904, although there is little doubt that such a statement was rendered at the time.

CITY OF MILWAUKEE.

	All Candidates for Mayor.	Administrative and Executive Officers.	All City Officers.
1898	$ 1,574.60	$ 4,180.35	$ 8,280.93
1900	3,081.50	5,754.90	13,547.95
1902	1,966.64	7,463.91	17,820.61
1904	627.25	3,203.00	9,628.80
1906	14,735.21	20,628.89	27,915.49
1908	25,500.13	30,090.38	50,479.49

The same abnormal increase in the expenses of candidates is shown in the statements filed with the county clerk, from which the following table is made up:

ALL COUNTY OFFICERS.

1898—103 statements	$14,887.91
1900— 67 statements	24,952.58
1902— 53 statements	27,792.14
1904— 57 statements	13,456.35
1906— 95 statements	69,873.03
1908— 87 statements	46,308.87

The excess of the amount expended in 1906 over that of 1908 is explained by two statements, those of Francis McGovern and F.

X. Boden, candidates for district attorney. Mr. McGovern rendered an account amounting to $16,699,85, and Mr. Boden's statement placed his expenses at $15,252.58. In 1904, Mr. McGovern, running for the same office, spent $1,086.90. Deducting these two statements from the total, there still remains $37,920.45, as the expenses of the other candidates in the first primary year.

One of the most important offices of the county is that of sheriff, and it is one that is much sought after. In the last three campaigns the candidates for that office expended the following amounts in their attempts to secure the nomination and election: 1904, the last convention year, $3,075.00; 1906, the first primary year, $6,715.58; 1908, $9,011,86.

That the increase in the amount expended is not always due to a multiplication of candidates is shown by the abstract of statements of candidates for mayor filed with the city clerk which follows. David S. Rose, for instance, has been a candidate for that office at each election during the entire ten year period, and he has been the successful candidate each time except in 1906, when he was defeated by Sherman M. Becker. Mayor Rose's statement for 1904, the last convention year, can not be found, although he says he filed it according to law, but the fact that this veteran candidate, one who is acknowledged to have a large personal following in the city, found it necessary to increase his expenses under the primary law is clearly shown and it is significant. Another significant fact is that so many candidates have entered the race in 1906 and 1908 with ample funds and a willingness to spend liberally. Here is a list of the mayoralty candidates for ten years with the amounts expended by each:

FOR MAYOR.

1898—David S. Rose (D)	$	933.25
William Geuder (R)		578.25
H. J. Baumgaertner (R)		63.10
H. H. Steinman (D), nothing		
	$	1,574.60
1900—David S. Rose (D)	$	1,877.55
H. J. Baumgaertner (R)		1,197.35
Frederic Heath (S. D.)		6.50
	$	3,081.40
1902—David S. Rose (D)	$	1,291.65
Charles Anson (R)		675.00
	$	1,966.65
1904—David S. Rose (D)—no statement		
Guy D. Goff (R)	$	600.00
A. A. Clas, by petition		27.25
Victor L. Berger (S. D.), nothing		
	$	627.25

1906—David S. Rose (D)	$ 2,027.10
W. G. Bruce (D)	1,662.03
S. M. Becker (R)	9,207.91
W. J. Fiebrantz (R)	1,784.62
J. Vierthaler (S. L.)	53.55
W. A. Arnold (S. D.)—nothing	
	$14,735.21
1908—David S. Rose (D)	$ 5,223.89
W. H. Graebner (D)	2,488.23
Louis A. Dahlman (R)	7,900.69
T. J. Pringle (R)	6,141.02
John T. Kelly (R)	3,205.80
G. A. Zilgitt (D)	535.00
Emil Seidel (S. D.)	5.50
Thomas Gardner (Pro.)—nothing	
	$25,500.13

Turning now to the expense statements filed with the secretary of state since the corrupt practices act went into effect in 1898, the same climb of expenses upward is noticed. No account is taken of the few candidates for the legislature who are required by law to file their statements at Madison, the examination being confined to state officers, members of congress, and United States senators.

	For Governor.	Lieut. Governor.	Sec. of State.	State Treas.
1898	$ 5,821.04	$ 1,216.75	$ 2,327.72	$ 1,472.80
1900	6,780.93	795.00	1,166.04	704.49
1902	7,184.61	1,073.53	3,738.28	2,402.75
1904	8,061.74	1,258.60	4,106.20	3,575.50
1906	17,407.25	15,031.46	3,317.07	8,792.35
1908	10,854.70	4,006.42	907.35	1,659.70

	Attorney General.	Insurance Com.	State Ticket.
1898	$ 815.50	$ 169.87	$11,823.71
1900	648.26	1,176.53	11,271.07
1902	1,181.15	2,026.74	17,607.06
1904	1,015.85	4,583.78	22,601.67
1906	4,801.58	1,838.33	51,188.04
1908	1,023.92	4,561.09	23,013.19

CONGRESSIONAL TICKET.		UNITED STATES SENATE.	
1898	$ 19,437.75	1899	$ 6,760.60
1900	19,834.88	1903—nothing	
1902	24,276.20	1905	262.87
1904	23,538.46	1907	6,187.89
1906	45,327.78	1909	192,977.59
1908	50,417.79		

The decrease in the cost to candidates for state offices in the campaign of 1908 when compared with 1906 is explained by the fact that the state officers were all in the field for renomination and re-election, and, as it has been customary in this state to recognize the right to a second term, there was little opposition to the old officers with the single exception of the candidate for insurance commissioner. Still, the expenses that year were more than double the amount reported in 1902.

CHAPTER XX.

Repudiated by its Friends.

Three times since it was enacted into law and put in force in 1904 by approval of the voters at the polls, has the primary statute been repudiated by the men who were responsible for its adoption as the law of Wisconsin. In 1906 Francis McGovern was a candidate for renomination for the office of district attorney of Milwaukee county, and he was defeated by Frank X. Boden by a vote of 13,605 to 12,906. This was the result of a direct primary where the voters used the ordinary ballot, the nearest approach to an Australian ballot known in this state, and signified their choice of candidates under a system designed to give "the people the absolute power to say who their candidates for office should be—of insuring to each man an equal voice in the selection of candidates."

The day following the primary Mr. McGovern, who was one of the original primary law advocates and a leader in the fight for its enactment, was quoted by a newspaper as saying that he was defeated fairly, or words to that effect. Later, he changed his mind and filed a newspaper indictment against the citizens who voted for Mr. Boden, charging that they were all grafters or friends of grafters. He was subsequently elected by a vote of 15,510, an increase over his primary vote of 2,604, while Mr. Boden polled but 13,783, an increase of but 178 above his primary vote. It is a significant fact that Mr. Thiel, the social democratic candidate for district attorney, ran 2,213 votes behind the highest vote polled for a candidate on his ticket. But that was an election matter and ought not to appear in the account against the primary law experiment.

Again, in 1908, H. L. Ekern, former speaker of the assembly, another leader in the campaign for the enactment of the primary law, was a candidate for renomination in Trempealeau county, and he was opposed and defeated by H. L. Twesme by a vote of 2,157 to 2,013. Nothing occurred at this election that might not be expected at any Wisconsin primary. The total vote of the two republican candidates was 4,170. In 1902 the total vote for assemblyman in that county, democratic and republican, was 2,623; in 1904 it was 4,510 of which 1,201 were cast for the democratic candidate, leaving 3,309 as the largest republican vote ever cast for assembly in that county previous to 1908; in 1906 the total vote of both parties was 2,345. These figures indicate the extent to which democrats participated in republican primaries in 1908.

As in the case of Mr. McGovern two years before, Mr. Ekern refused to abide by the decision of the primary and came out as an independent candidate by petition. He was defeated at the elec-

tion in November, being less fortunate than the first primary election bolter.

Mr. Ekern's cause was supported in the campaign for the election by a majority of the persistent La Follette men. The word "persistent" is used in this connection to distinguish the men who have continued to be loyal to the senator since the numerous cracks and splits in the so-called "halfbreed" faction appeared, breaking it up into warring tribes that have nothing in common but their dislike of the stalwarts. Senator La Follette went into Trempealeau county and delivered public addresses in support of Mr. Ekern, thereby giving his personal approval to the bolters and their leader. On the other hand, Gov. James O. Davidson took the stump for Mr. Twesme, arguing that consistency demanded of all men who had supported the primary election movement a loyal support of the candidates nominated by the party at the primaries now held under the provisions of the law they had caused to be enacted.

The third instance of repudiation of the primary election law by the men who were instrumental in forcing the law upon the people of the state was one that attracted some attention even beyond the borders of the state. Senator Isaac Stephenson, nominated at the primary held in September, 1908, over S. A. Cook, Francis McGovern, and W. H. Hatton, appeared before the legislature for election as the regularly nominated republican candidate. But the cordial sentiments of mutual esteem that formerly had bound Senators La Follette and Stephenson together in the closest bonds of interest and purpose had changed. The followers of the senior senator refused to abide by the decision of the primary and demanded an investigation into the amount of money expended by the junior senator in securing the nomination. They also wanted to know who got the money. Mr. Stephenson was re-elected after a time. It has been said that the investigators are still dissatisfied with results and are determined to pile up still more testimony indicative of the blessings that are inseparable from the operations of this most perfect law—this law that puts up the party nomination at auction to be knocked down to the highest bidder.

Fair minded, clean handed citizens will not file objections to an investigation designed to expose corruption and punish offenders against the corrupt practices act, but they might have expected—and many of them did—just such a campaign as the one waged in 1908 for the seat in the United States senate. The expense statements on file in the office of the secretary of state show that the contest for that nomination cost the candidates $192,977.59. It is not reasonable to suppose these statements are accurate to a cent. In point of fact, supplemental statements were subsequently filed that do not appear in this total. By adding to the sworn statements of the candidates for the United States senate the $96,788.36 expended in Milwaukee city and county the same

year, the $23,013.19 spent by candidates for state offices, and the $50,417.79 spent by candidates for congress the tidy sum of $363,-196.93 is obtained. It would be interesting to know what the candidates in the seventy counties not mentioned expended and what the total for the entire state amounted to.

The story of the contest for the election in the legislature last winter that resulted in the return of Mr. Stephenson to the United States senate is written in the volumes of testimony taken before the investigation committees. It is a story of lavish expenditure of money by all four candidates in perfecting state organizations and making a state canvass for votes. But this result was anticipated and pointed out in advance by the opponents of the primary election law. "The certain effect of the law in operation," about which Gov. La Follette was so eloquent in his message to the legislature in 1901, embraced, among other things, the expenditure of large sums of money by candidates seeking nominations.

The real significance of that investigation is found in the fact that the La Follette contingent, or branch, of the halfbreed faction repudiated their own law when they refused to support Senator Stephenson. Senator Stephenson spent money liberally in securing the nomination, and in doing this he merely followed his uniform practice. He spent money liberally in the interests of Senator La Follette when that gentleman was building up his faction in this state and it was to be expected that he would be no less liberal when he was himself a candidate for office. The other candidates were as free in the use of money as Mr. Stephenson when "their ability to pay" is considered. Mr. McGovern, who says he is a poor man comparatively, having spent more than $16,000 two years before in running for the office of district attorney of Milwaukee county, found it necessary to dispose of more than $11,000 in the senatorial campaign. When men of Mr. McGovern's moderate means can find approximately $28,000 in two years to invest in office-seeking, it is not surprising that Mr. Stephenson should take from his many millions a paltry $107,000 to be used in the same manner.

Without any disposition to defend Mr. Stephenson's large expenditures of money, it may be well to consider some of the necessities in the case of a man who seeks a United States senatorship under the conditions under which Mr. Stephenson was a candidate. He announced his candidacy less than seven weeks before the primary. There was no party organization that he could avail himself of. The fact is the contest was within the so-called republican party of Wisconsin. There are seventy-one counties in this state and in order to feel reasonably certain of success, it must have been necessary to build an organization in each county. Every man who has had anything to do with political work knows that organizations of that character can not be created without money. The

necessary advertising for meetings, hall rent, messenger service, and many other expenditures, all perfectly proper, amount to large sums. It may be argued that such an organization is unnecessary or objectionable, and that people know whom to vote for without being dragged into political massmeetings. It must, however, be clear to every one that some effort is required. The voter must at least know who the candidate is. There are in round numbers 700,000 voters in the state of Wisconsin. The least and most inoffensive thing that a candidate for United States senator or state office can do is to write each voter a letter. That alone will cost $25,000. If Mr. Stephenson had addressed five letters to each voter in the state, which certainly would not be unreasonable, his expenses would have exceeded the amount which he has reported. It may be argued that his efforts should have been directed to republicans only. How is a man without a party list to know who is a republican or who is a democrat? The very best he can do, if he wishes to reach the voters by letter, is to take the entire polling list and address his communications to all voters regardless of their political persuasion.

CHAPTER XXI.

Wisconsin Has Lost Prestige.

There were many who believed that, by giving the people the right to vote directly for their candidates at a primary election the personnel of the officeholding class would be improved—that the state would secure better officers, men of more ability and influence. This was urged as one of the reasons why the bill should pass and become a law.

The results do not bear out this prediction. In 1903 Wisconsin held a high place in the councils of the nation. In both houses of congress Wisconsin men were found on the most important committees and no less than six chairmanships were held by members of the lower house from this state. Representative Cooper was chairman of the house committee on insular affairs; Babcock was chairman of the District of Columbia committee; Jenkins was chairman of the judiciary committee; Brown was chairman of the committee on mines and mining; Davidson of the committee on railways and canals; Minor was chairman of the committee on expenditures of the interior department.

In the upper house, Senator Spooner was chairman of the committee on rules and a member of the committee on Cuban relations, the committee on finance, and the committees on foreign relations and public health and quarantine. Senator Quarles was chairman of the census committee and a member of the committees on agriculture and fisheries, commerce, military affairs, public buildings and grounds, and the special committee on transportation and sale of meat products.

The fact that Wisconsin, one of the smaller states, standing thirteenth in population and ninth in manufactures, should be accorded six chairmanships in the lower house was a source of pride to Wisconsin republicans. With but eleven members in the house and six holding chairmanships of committees it was felt that the standing of the state at the national capital was being well cared for. And the committees headed by Wisconsin representatives were not unimportant. The judiciary, insular affairs, and District of Columbia committees were three of the most sought after positions in the house. The chairman of the judiciary committee, John J. Jenkins, stood next to the speaker of the house in power and prestige. The three remaining committee chairmanships held by Wisconsin men, railways and canals, mines and mining, and expenditures of the interior department, were none of them insignificant.

In the senate the committee on rules, then held by Senator Spooner, is the most important committee assignment that can be given to a member of either house, and all of the other assignments

held by Senator Spooner were of a high grade. Senator Quarles was the junior senator but his committee appointments were eminently satisfactory considering the time he had spent in the upper house.

Today Wisconsin holds but one chairmanship in the house. Representative James H. Davidson is chairman of the committee on railways and canals. The successor to Representative Jenkins, the late head of the judiciary committee, is Irvine L. Lenroot, who holds fourth place on the committee on ventilation and acoustics, a booby committee to which Wisconsin men have not heretofore been assigned with one or two exceptions. Mr. Cooper has lost his place on the insular affairs committee. Mr. Babcock's successor, Arthur W. Kopp, is fourth on the committee on expenditures in the state department, sixth on the committee on elections No. 1, and tenth on committee on pensions. Representative Esch, an old member, continues to hold fairly good places on the committee on interstate and foreign commerce and the committee on expenditures on public buildings, and Davidson is on the committee on rivers and harbors in addition to holding the solitary chairmanship already mentioned.

In the senate the senior senator, La Follette, holds practically the same committee appointments held by the junior senator in 1903. The committee assignments of the senators in 1903 and 1909 may be compared as follows:

1903—Senator Spooner, senior senator, chairman committee on rules, member committees on Cuban relations, finance, foreign relations, public health and national quarantine (special).

1908—Senator La Follette, senior senator, chairman committee on census, and member committees on civil service and retrenchment, corporations organized in the District of Columbia, expenditures in the department of state, immigration, Indian affairs, and pensions.

1903—Senator Quarles, junior senator, chairman committee on census, and member committees on agriculture and forestry, commerce, military affairs, public buildings and grounds, transportation and sale of meat products (special).

1908—Senator Stephenson, junior senator, chairman of the committee on expenditures in the department of agriculture, and member of the committees on claims, enrolled bills, Indian depredations, industrial expositions, Pacific railroads, and public buildings and grounds.

In the lower house the comparison is still more unfavorable to the state. While the present senators hold more committee assignments than did their predecessors, their labors will not be of a character to overtax their strength, as meetings of most of the committees are rarely held. In the house the number of committee assignments as well as the character of the committees to which appointments are made, indicate a loss of prestige. Following are the assignments in 1903 and 1908, by districts:

First district, 1903—H. A. Cooper, chairman of the committee on insular affairs; 1908—H. A. Cooper, member committee on elections No. 3, and of the committee on foreign affairs.

Second district, 1903—H. C. Adams, member of committees on agriculture and expenditures in interior department; 1908—John M. Nelson, member of committees on elections No. 3, Pacific railroads, and industrial arts and expositions.

Third district, 1903—Joseph W. Babcock, chairman of committee on District of Columbia and member of committee on ways and means; 1908—Arthur W. Kopp, member of committee on expenses in state department, committee on elections No. 1, and on pensions.

Fourth district, 1903—Theobald Otjen, member of committees on foreign affairs, war claims, and Pacific railroads; 1908—William J. Cary, member committee on District of Columbia and on expenditures in navy department.

Fifth district, 1903—William H. Stafford, member committee on postoffices and postroads; 1908—William H. Stafford, member of committee on interstate and foreign commerce and committee on postoffices and postroads.

Sixth district, 1903—Charles H. Weisse (democrat), member of committees on private land claims and manufactures; 1908—Charles H. Weisse, member of committee on private land claims and invalid pensions.

Seventh district, 1903—John J. Esch, member of committee on military affairs and interstate and foreign commerce; 1908—John J. Esch, member of committees on interstate and foreign commerce and expenditures on public buildings.

Eighth district, 1903—James H. Davidson, chairman committee on railways and canals and member committee on rivers and harbors; 1908—James H. Davidson, chairman committee on railways and canals and member of committee on rivers and harbors.

Ninth district, 1903—E. S. Minor, chairman committee on expenditures in interior department, and member of committees on merchant marine and fisheries and public buildings and grounds; 1908—Gustav Kuestermann, member of committees on liquor traffic, patents, and immigration and naturalization.

Tenth district, 1903—Webster E. Brown, chairman committee on mines and mining, and member of committee on Indian affairs; 1908—Elmer A. Morse, member of committees on war claims, manufactures, and private land claims.

Eleventh district, 1903—John J. Jenkins, chairman judiciary committee; 1908—Irvine L. Lenroot, member of committees on patents and on ventilation and acoustics.

This record tells the story of Wisconsin's fall from a leading position at the national capital to one of little influence and less honor. There has been an attempt at an explanation of this unfortunate development. It is said that "Uncle Joe" Cannon "has it in" for the Wisconsin members because they chose to act independently, and refused to do his bidding.

Such an explanation is sheer nonsense. The Wisconsin members were ignored because they have ceased to represent a party. There is no political party in Wisconsin today. Each member represents an independent effort at the primary and the polls, and he goes to Washington as an individual who has been elected on a platform made by himself and presented to his constituents on the stump or in the form of private campaign literature. The names "republican" and "democrat" have no real meaning in Wisconsin today. Even the members of congress make their own platforms

and stand on them, there being no conventions of party representatives to perform that duty. Each member of congress is a party by himself, and he runs for office on his own individual merits and the issues he may feel disposed to present to the people and talk about.

Is it any wonder that, when these men arrive in Washington, they are not given the best places on the committees of the two houses? Were they republicans in a republican house of representatives they could demand recognition and secure it, through party influence, against the opposition of the speaker. He would not dare to ignore ten republicans who came from a republican state, elected on the republican ticket, running on a republican platform. But he can well ignore ten individuals who made their own platforms, coming from a state where political parties have been abolished and candidates for office, instead of appealing to the voter on party principles, follow the line of least resistence and adopt the "anything to win" method of securing votes.

CHAPTER XXII.

The Primary Law a Failure.

After four years of experiment with the Wisconsin primary election law it is not difficult to point out many weaknesses and inadequacies that have become apparent in its operations. Even the original primary election advocates, those who were confident the law would prove to be an automatic cure all for political ills, now acknowledge that it must be amended. They still contend that the principle is sound; they merely propose to make certain changes in the statute in order to give the principle an opportunity to do its work.

Many voters who supported it after a four years' trial of the law are tired of it. They do not believe the principle is capable of successful application to the nomination of candidates for office. There are many citizens who will not express an opinion because they have been impressed with the belief that there is something sacred about the direct primary election plan, and they are further convinced that there is an overwhelming public sentiment behind it. But there are enough who openly and unequivocally condemn the law and the principle involved in it to indicate clearly what informed public sentiment in Wisconsin now is on this subject.

Objections to the law are based on its failures to perform the miracles its friends claimed for it and the positive disadvantages and grave evils that have developed through the attempt to apply the principle practically. In other words, it has failed signally to effect reforms promised and it has brought forth a brood of political and social abuses of the most serious character. Here are a few of the more serious criticisms of the law as it has been developed in this state:

1. The personnel of the officeholding class has not been improved; better, more capable, and cleaner men have not been elected to office; public officers are not more devoted to their duties; the civil service is not improved by the appointment of a better class of employes.

2. Public morals are not elevated by the change in the method of making nominations. Never before in the history of the state was so much money expended by candidates in campaigns as at present. Never before were there so many open charges of corruption and the unlawful use of money.

3. It has disorganized parties and built up personal political machines.

4. The members of the state legislature are split up into factions and there is no party responsibility for their acts, which has

resulted in an endless amount of useless and some harmful legislation.

5. The primary contests have engendered so much bitterness that each election brings about a new alignment of personal political machines.

6. Nominations at the primaries no longer represent the will of the members of the parties making the nominations. The members of the minority party invariably vote in the primaries of the majority party. Republican candidates with personal machines make trades with democrats and socialists for votes in republican primaries. Democratic leaders are hopeless, for they do not have even the consolation of being at the head of a party that stands for democratic principles, a respectable minority party.

7. Poor men and men of moderate means can not become candidates for office under the primary election law when there are contests, except on two conditions. They must face ruin or accept money from others to defray their necessary expenses. If they accept financial aid they assume obligations no public servant should incur.

8. The electors can not "vote directly for the men of their choice" at a primary election. They must vote for some man whose name appears on the primary ticket, and that ticket is made up of candidates who have circulated nomination papers or caused nomination papers to be circulated. They may all be officeseekers and objectionable to 90 per cent of the voters, but the voter must submit to make his choice from the self nominated primary candidates.

9. Never in the history of the state have the enmities engendered by political contests been so bitter as they are today. All pretense of the old good natured rivalry between parties has disappeared from the political arena. Charges of unlawful use of money, of a debauched public service, of actual bribery, of personal dishonesty and political trickery were common during the last session of the legislature.

10. Few, if any, intelligent men who take an interest in politics can be found in the state who will not readily admit that the law is not satisfactory and needs amendment. Changes have been suggested at every session of the legislature since the law was enacted, but no real remedy has been found.

11. While no attempt has been made to compute the entire cost of the law in operation to the taxpayers of the state, counties and cities, no one will for a moment dispute the truth of the statement that it has been enormous and that no compensating benefit has resulted.

12. The law gives a decided advantage to the man in office. In the case of a United States senator or state officer where the candidate must appeal to the entire electorate, the man who is known to the people as the man in office is, has much advantage

over the newcomer. The well advertised candidate, although he is an inferior person, will get the nomination over a less advertised, but better equipped candidate.

13. The placing of names of candidates on primary tickets by petition has developed a new industry in this state during primary campaigns—the circulation of petitions for hire. The party clubs of former years have disappeared; in their places have appeared the mercenaries who secure names on petitions for a consideration. This is an exchange of patriotism for pelf.

14. The abolition of all conventions, county, district and state, has deprived the voters of parties of the opportunity to get together, rub elbows and become acquainted. In conventions men from different sections of the state met and exchanged views. They explained the merits and abilities of the several candidates for office and they made "trades" to the advantage of the party ticket in most cases. The conventions were the schools of politics to which many young men went for their education and they had an educative value. All the advantages of this free intercourse and the exchange of ideas and information disappeared with the abolition of the convention.

15. The provision for making platforms in conventions made up of candidates for office is a confessed failure. Platforms made in that way do not represent the principles of the party, but are mere "catch vote" affairs. Even the candidates who make them do not respect them, for they go out into the field with platforms of their own, in many cases carefully prepared, printed and distributed.

16. The law has not dethroned the political boss. If we ever had a real boss in Wisconsin before the primary law we have merely changed bosses. Upon that feature of the question there is no chance for argument. The law complicates politics, and any law that does this widens the opportunity for manipulation and increases the activity of the boss. In fact, complicated politics require leadership and political genius.

The shortest and most satisfactory solution of the primary election problem as it is now presented can be incorporated in three words: "Repeal the law." But something is needed to take its place. For ten years before the primary election law now in force was presented to the legislature in 1901 the Wisconsin lawmakers had been experimenting. They had developed through the evolutionary method what was known as the Milwaukee primary or caucus and convention law. There was no pretense on the part of any Milwaukee citizens, whether actively interested in politics as candidates, public officers, or committeemen, or among private citizens whose sole interest was good government, that the Milwaukee primary law did not furnish adequate protection to the elector in the exercise of every right to participate in the management of the affairs of

his party, if he belonged to a party, and in the nomination of its candidates for office.

Under the Milwaukee primary law the members of parties voted directly for the nomination of all candidates for local offices and for delegates to city, county, district, and state conventions. In other words, within the territory in which they were, or could be, acquainted with the characters and qualifications of candidates they nominated by a direct vote. When the territory embraced in a district was so large that there was a doubt of the ability of the voters to choose intelligently, they selected representatives in whom they had confidence to meet in party conventions and act for them. This was in accordance with the principles of representative government, the only kind of government possible in a country like ours.

Under the Milwaukee law, also, the candidates were placed on the primary ticket at preliminary meetings which were open to all members of the party and any name proposed as that of a fit man to become a candidate for office or for a place on a delegation would be received and placed on the primary ballot. In this way canvassing for signatures to nomination papers was avoided and the expense incidental to such a canvass was made unnecessary.

Under the Milwaukee law candidates for office who were to be nominated by a direct vote of the electors did not have large districts to canvass and it was not necessary for them to organize personal machines and hire mercenaries to aid them in their primary campaigns. They did not deem it necessary to fill columns of the newspapers and cover acres of billboard space with glaring advertisements of their virtues and qualifications for the offices they were industriously seeking.

Where a district was larger than a township or ward, candidates were required to lay their claims before representatives of the voters in a party convention. Members of other parties could not participate in the business before the convention. It was a family matter conducted by members of the family of voters. Independent voters, dissatisfied members of the party, and members of other parties were given an opportunity to express their approval or disapproval of the nominations made and platforms adopted when the time came to elect or defeat the candidates nominated, but the nominations were made by the members of the parties and no others—a most wise provision.

Under the Milwaukee law when candidates were nominated by party members there was order and system as well as party responsibility. Party committees and clubs aided in the election of party tickets. Whatever money was required to carry on the campaign was expended largely by party committees in the interests of the entire ticket. Political clubs were organized in the wards, made up of citizens who cherished no personal political ambition and whose

sole aim was the promotion of party success and the triumph of party principles. They held meetings, discussed public questions, exchanged opinions, and devised measures for the advancement of the interests of the party in the local field. Young men who became members of these clubs and who attended party conventions as delegates, having won the confidence of their neighbors, were in this way given a liberal education in the principles of government. They gained experience, a knowledge of men, and a familiarity with public affairs that can be attained only by meeting and mixing with other men who are equally interested and patriotic. Their minds were broadened, their acquaintance multiplied, and their ability to become useful citizens increased by their political activities. Now that political clubs and conventions have been abolished in this state there is no place for the young business and professional man in politics except as an officeseeker or a mercenary attached to some personal political machine.

While there were complaints under the old system that the best man was not always nominated and that, at times, parties were not always wisely governed, there was not one fault found with that system that has not been exaggerated beyond all reason in these days of political disorganization.

In addition to repealing the primary election law and re-enacting the Milwaukee caucus and convention law of 1899, steps should be taken to provide for a limit to expenses that may be incurred by candidates seeking nominations. This may well be done when candidates are nominated by conventions made up of delegates representing large districts or territories. In the old days it frequently occurred that candidates were nominated who had not spent one cent to advance their own interests. John C. Spooner was nominated three times for the United States senate and he did not spend money to secure either the nomination or election. Where candidates are nominated by a direct vote in a strict party caucus or primary—in what is known as a closed primary—as was done under the old Milwaukee caucus and convention law in the case of all local officers, the expenses may be limited to a reasonable amount.

But, under the Wisconsin primary election law now in force there is an element of injustice in putting up an office at auction and then denying candidates the right to bid in the open. A candidate for a state office must have a wide acquaintance, must be favorably known—or well known, in any event—in order to stand a chance of success. If he be not well known in advance he must make himself known through a campaign of publicity. This can be accomplished in but one way—he must spend money and spend it liberally.

What right has a state to enact a law by which long, arduous, and expensive campaigns are made necessary if the candidate shall hope to win, and then provide a limit of expenses that makes such

a campaign impossible, or at least impractical? The state has no right to tempt its citizens to spend money and then brand as a corrupt practice the act it has itself invited. The state should be consistent. Having put its offices up at public auction it should abide by the consequences or adopt a new system. It has no right to say that only men of wide and intimate personal acquaintance in congressional districts may hope to be nominated for congress, denying to men of limited acquaintance in the district the right to make themselves and their ability known to the voters.

In a convention such a man would have a fighting chance—or his friends in the convention from his home county would at least be able to present to the delegates his claims and make them acquainted with his qualifications, if he be well qualified for the position. In the primary election he would not even have a chance to fight against another man who had sold horses or bought hogs all over the district and who could call a majority of the voters by their Christian names. What right has the state to make it necessary to spend money to win a nomination and then deny the candidate the privilege of spending money?

And yet a limit to such expenditures must be fixed. Here is a primary election paradox. To leave the law as it is merely puts a premium on corruption. To amend it would deprive worthy men of all opportunity of becoming candidates for office with a prospect of success unless they were widely known in advance. And there is still another reason why the amount of money that may be expended in seeking office should be limited. Only men of wealth can afford to seek, or accept, office solely for the honor attached to positions of trust and confidence. Men of moderate means invite ruin when they expend large sums to secure a public office. Many men have been utterly ruined by officeseeking and officeholding. If the cost of getting office be increased or maintained at its present figure in this state, corruption and graft will follow as a natural consequence. There is no escape from this conclusion. There is no call for theories, for eloquent generalities, for appeals to popular prejudice in this emergency. The use of cant phrases such as "special interests," the "right of the people to a direct vote," and "fundamentals of government" is all well enough in its place, as is also the use of the terms "progressive" and "reactionary" to distinguish those who favor or are opposed to the Wisconsin primary law as it is, but cant is not what is needed in this state at the present time.

Wisconsin is confronted by a condition, clearly defined, unmistakable in character, and demanding amendment at the earliest possible moment. The columns of the newspaper press have been full of the details of this condition for months. Business and professional men, politicians and private citizens, farmers, artisans and laboring men are all aware of the situation and wondering what is to become of the state.

There is but one way to escape the evils that are threatening and that is to bring to bear on the members of the legislature enough pressure to cause them to make the necessary changes in the method of nominating candidates. They will not do it without pressure. There is a popular superstition that the direct primary is a sacred institution. It has had a mighty conjure spell thrown about it. It is demonstrably a failure, but thousands are as afraid of it as they are of a haunted house or a cemetery at midnight. The members of the legislature will not touch it until they are forced to do so and the only power that can force them is the voters.

The law is bad. It should be changed or repealed. To do so will not be a step backward as some will claim, but a step forward, just as much so as it is to repeal any other bad law. There is nothing sacred about it. It is only a pretty theory that does not work out in practice. The friends of constitutional government should make the question an issue in every legislative district. The fact that some politicians still cling to it as a parent does to a wayward child should not deter the movement for its repeal. Those who have brought themselves into political prominence by agitating it have been rewarded. In other words, they have been settled with. If they wish to continue in the public service they should come forward and aid the people in wiping out a colossal blunder. This is a splendid opportunity for them to demonstrate to the people that they have a higher regard for the public welfare than their own selfish interest. What the people should now do is to fix up their election laws in a way that will guarantee constitutional government and thereby perpetuate our republican institutions.

PART TWO.

TAXATION REFORM IN WISCONSIN.

CHAPTER I.

Need of Reform Recognized.

The history of taxation legislation during the first fifty years of Wisconsin's experience as a state is one of constant effort to patch, amend, and stretch the original taxation system, adopted by the founders of the state, to fit new conditions constantly arising. When the state was first organized and admitted into the union the cost of administering the public business was comparatively insignificant, and the task of apportioning the expenses of administration among the taxpayers was not a difficult one. A general property tax, covering, as it did, real and personal property, was sufficient for the needs of the state, and, as both real and personal property were for the most part tangible, the work of placing a value upon all property was one about which there could be no serious controversy.

But that condition did not continue long. The last half of the nineteenth century was a period of transition from the old to the new. Our grandfathers lived the simple life; they transacted their business in the simplest possible manner; they had neither great wealth nor extensive fields of operation; their plan of taxation was as simple as their private business, and it answered their purposes. Their successors changed all that. They built railroads, telegraph, telephone, and electric car lines. They organized great corporations doing business in every state in the union and in foreign lands. They borrowed millions of capital and invested it in industrial pursuits. They changed the entire financial, commercial and industrial systems. Incidentally, they amassed great wealth, a large proportion of which was of a character that made tax evasion easy. In point of fact this class of property termed "intangible" by the economists, could only be assessed when it was declared by the owners themselves, as there was no way in which the assessing officers could discover and value it.

As the evolution of the business world progressed the efforts to adjust the taxation system to the new conditions became more persistent and earnest. Tax reform was not a political issue at any time during the fifty years that closed the last century, nor has it been a real political issue since. There have been differences of opinion, it is true, concerning specific measures designed to remedy

existing inequalities of tax burdens, but there has never been a political party, a faction of a party, or any considerable number of citizens who were opposed to any measure that was demonstrably a reform or an improvement of the taxation system.

During the last decade there has been considerable newspaper space devoted to the subject of taxation and political speeches made in this state have bristled with charges of conspiracy to evade taxes, but there has been no real issue at any time. The work of tax reform, or the improvement of the taxation system, began years ago, before there was any talk of a "reform administration" of state affairs. Governors, members of the legislature, and private citizens all took part in the discussion and all were apparently animated by a sincere desire to find a workable solution of the problem. That they did not succeed in speaking the final word on the subject is not their fault, nor would it be just to charge up more recent failures to the account of the present generation of reformers. They have been doing what they could, but the balance on the credit side of their ledger would have been greater if they had been less cocksure of the efficacy of their remedies and less severe in their criticisms of others who offered suggestions.

One of the most fruitful sources of inequality and injustice in the taxation system grew out of the old practice of undervaluation common throughout the state. In this practice the state set a bad example, which was followed by the counties, towns, school districts, and individuals in turn. Under the old law the state was supposed to levy a tax of one mill on the dollar of valuation for common school purposes, and the state board of equalization, estimating about how much money the common schools would require, fixed the valuation of the state to fit the one mill school tax. For a number of years prior to the change in the system the valuation of all property in the state as arbitrarily fixed by the state board of equalization, was approximately $600,000,000.

County boards of supervisors, believing the state board of equalization would be influenced by the valuation of property in the county as established by the county committee on equalization of assessments, vied with each other in keeping down their assessed valuations. Township officers, in their efforts to evade as much as possible of the state and county taxes, caused the undervaluation of property and assessors who had sworn to assess all property at its true valuation, violated their oaths. Individuals, encouraged by the example of the state, county, and township officers, contended for still lower assessments and ended by making false reports of the amount of their personal property, in some cases leaving out a large percentage of that property entirely.

But, while the contest to shrink assesse values to the minimum was a sharp one, there were localities where it was impossible to follow the popular custom to the limit. In many cities of the state

the necessity of making public improvements required that a fair rate of assessment be established and as little property be permitted to escape taxation as possible. In many of those municipalities the real estate assessments represented from 60 to 70 per cent of the actual market value of the property, while the average in the rural districts was in some cases as low as 20 per cent. or less of the real value.

This resulted in unequal tax burdens and complaints were filed. The law required the taxation of mortgages, but it was ignored because the owner of the mortgage, believing that mortgage taxation was double taxation if the property mortgaged was taxed at its full value, evaded the tax. Owners of stocks and bonds, representing in most cases property that was already taxes, refused or neglected to report their "intangible" assets to the assessor and thus another large class of values, assessable under the law, failed to appear in the assessment rolls.

In this way the work of educating the property owning public in the gentle art of evading taxes went on from year to year. Johnson's excuse for evading his taxes was that Robinson evaded his. Brown knew that Jones had not reported his mortgages and refused to list his own bonds, while Schmidt hid his watch when the assessor made his rounds because Smith's parlor organ had been overlooked. Certain conscientious citizens refused to swear to the valuation placed by themselves on their personal property because they knew it was too low, and yet if they reported it at its true value they would be paying more than their fair share of the taxes.

And yet all this time the tax reformers were busy with the laws in their attempts to find a remedy for the manifest evils that were so prominently noticeable in the system. New laws were passed at every session of the legislature and old laws were amended or repealed. The courts were appealed to time and again and judicial decisions were added to the complicated mass of literature which the student of the subject of taxation was called upon to wade through. In an article printed in The Milwaukee Sentinel on March 28, 1897, K. K. Kennan reported that there were 889 Wisconsin Supreme Court decisions bearing on tax questions. No attempt has been made to compute the number of bills introduced in the legislature or the number of measures passed relating to taxes and taxation, but they unquestionably run up into the thousands.

But the remedy was not found because the methods employed were inadequate and futile. No systematic attempt was made to establish a system of taxation, the efforts being confined to the work of piecing and patching, to stretching and contracting, to boring holes here and filling holes there, to lopping off in one place and adding on in another. Many of the new laws were contradictory. It was difficult to find two amendments that harmonized with each

other, and the courts were kept busy construing the conflicting provisions with the hope of bringing order out of chaos.

The members of the Wisconsin legislature were, however, traveling a path that would lead them to results later on. Or, it may be more accurate to say, will lead them to results, for, while great improvement has been made, the end sought has not been attained as yet.

One of the first, if not the first, efforts to shake down the chaotic mass of taxation laws into some semblance of a system was made in 1873, when State Senator F. W. von Cotzhausen of Milwaukee introduced bill No. 46S, entitled: "A bill to provide for the collection of certain statistics with a view to more fully equalizing the state taxes."

The immediate inspiration for the introduction of this measure was the filing of a large number of petitions asking the legislature to repeal the laws exempting church and other property from taxation. A committee was appointed, of which Senator Cotzhausen was chairman, to consider the matter, and they worked industriously in their efforts to determine the value of the property the exemption of which was complained of. Incidentally it occurred to the committee that it would be a wise plan to have a commission appointed to prepare for the legislature such statistics and other information relative to property in the state as would be of use in framing taxation laws. The bill was passed, but on March 10, 1873, Gov. Washburn returned it with his veto to the senate, explaining that the expense of gathering the statistics would be great, and that they would not be reliable when gathered, as the actual value of property could not be ascertained by examining the records of sales, the consideration named in the deed being in many cases merely nominal. "A consideration of $1 named in a deed will pass the title as well as $10,000," said the governor.

Manifestly the governor was mistaken in this instance, as it is to the sales records of real estate that all authorities now go to make comparisons between assessed and actual values, leaving out of consideration as a matter of course all transfers where there is any reason to believe the real purchase price is not named in the deed. But, however mistaken Gov. Washburn may have been, there was not enough sentiment behind the movement to pass the bill over his veto and it was permitted to drop for the time being.

At the next session of the legislature, 1874, Assemblyman Osborn revived the matter by introducing joint resolution No. 18A, which was worded as follows:

"Resolved by the assembly, the senate concurring, that the governor designate three suitable persons to revise the laws for the assessment and collection of taxes, and whose duty it shall be to report to the next session of the legislature within five days after the commencement of the session."

This resolution was introduced on Jan. 29, 1874, and indefi-

nitely postponed by the assembly on Feb. 25, 1874, on report from the committee of the whole. It will be remembered that the assembly that year was made up of reformers—progressives they would be now called—as the election of 1873 had been carried by the grangers, their majority in the assembly being overwhelming. Gov. William R. Taylor had been elected to succeed Gov. Washburn and a clean sweep had been made of the lower house, the republicans holding the senate by a majority of one.

No one will accuse the granger majority in the assembly of conspiring to defeat taxation reform legislation. It was simply and solely inability to grasp the needs of the situation that defeated the resolution. Marvin Osborn, the author of the resolution, was elected to represent the First district of Rock county. He was a republican and a farmer. Had the granger assembly seen fit to pass his resolution the work of revision would at least have had a beginning. As it was, it was delayed for twenty-three years.

CHAPTER II.

Fight for Tax Commission Begun.

To K. K. Kennan, the Milwaukee attorney, is due more than to any other one man the credit for giving Wisconsin a tax commission. There are good people in Wisconsin who in the innocence of their hearts believe that whatever advancement has been made in taxation reform should be credited to the administration of Gov. La Follette, but this is an exaggerated estimate of the services rendered to the state in this particular field of activity by the present senior United States senator. That he contributed to the result by his sensational, if belated, agitation of the subject of taxation legislation doubtless is true, but it was (a) the creation of the tax commission and (b) the work of the tax commission that brought about a revision of the laws and the establishment of a new system of administering the laws under strict supervision by the commission, that in reality accomplished results.

Mr. Kennan began his work for the creation of a commission in 1889, at which time a bill drawn by him was introduced in the assembly by Peter Leonard of Price county. This bill was No. 383A. It was considered by the committee on assessment and collection of taxes and, on March 29, was reported for indefinite postponement. Later it was considered in committee of the whole, from which body it was reported without amendment on motion of Henry E. Legler, representative from the Seventh Milwaukee district. The bill was indefinitely postponed on March 30, 1889.

The history of the introduction of and work for this measure is an interesting one. Mr. Kennan, its author, was then tax commissioner of the Wisconsin Central railroad company and for several years he had been acquiring practical experience in the operation of the Wisconsin tax laws. The company he represented owned large tracts of land in the northern part of the state, where new counties were being organized. It was natural, therefore, that the inadequacies—to put it mildly—of the system should strike him forcibly, as his time was spent in efforts to straighten out tangles resulting from the ignorance or prejudice of local taxing officers and the uncertain meaning of the laws themselves. He believed that, if a commission of competent men were employed to compile statistics relating to the taxes collected, together with facts concerning the operation of the laws, the inequalities and injustice necessarily attending upon the enforcement of the illogical, conflicting and uncertain statutes by taxing officers with elastic consciences, the consequence would be a speedy attempt to remedy the defects in the system that would surely be pointed out. To this end he prepared an address which he delivered before the committee to whom the consideration of the bill was assigned. Considerable

time was spent by him as a member of the "third house," lobbying for the passage of the measure. The net result of his work was encouraging, although the bill failed of passage. The seed was planted, but it did not bear fruit until eight years later.

In 1891 and 1893 Mr. Kennan was out of the state, but the work was not entirely neglected. At the legislative session of 1891 Assemblyman H. J. Desmond, who represented the First Milwaukee district, introduced by title a bill to create a commission to investigate the taxing system. This action was taken after consultation with several members and the bill was introduced by title only as the last day for the introduction of new business had arrived and there was no time to prepare the measure. Nothing ever came of the effort as the bill was never even drawn.

In 1893 John Ringle of Wausau, member of the assembly from Marathon county, introduced bill No. 439A, providing for the appointment of one commissioner to make a thorough investigation of the subject of taxation and report his conclusions to the legislature at the next biennial session. Mr. Ringle was himself well acquainted with the assessment and taxing system and he was also familiar with the fact that there was a large and spreading discontent among taxpayers. He had served several terms in county offices where he came in direct contact with the taxpayers and noted the justice of many of their complaints.

Mr. Ringle's bill passed the assembly, but was defeated in the senate. The vote in the assembly was 74 to 12, in spite of the fact that the committee on "retrenchment and reform," a body created by the democratic legislators to help them make a good record while in control of the state's affairs, was opposed to the passage of the measure. The names of such men as the present governor, J. O. Davidson, W. H. Austin, Henry Hagemeister and A. R. Hall appear among those of members who voted for the bill when it came up in the assembly for passage. The measure failed of passage in the senate.

In 1895 Mr. Kennan, who had returned to the state from Europe, again took up the work of education, as it may be called. When the legislature convened he appeared at Madison with the draft of a new bill similar to the one introduced in 1889 by Assemblyman Leonard. The proposed law was made to combine so far as was possible the best features of commission laws enacted in other states, and carried an appropriation of $6,000 annually to pay the expenses of the commission.

This bill was introduced in the assembly by William O'Neil of Bayfield county and the work of securing its passage was vigorously pushed. It was introduced on Feb. 12, 1895, and referred to the committee on assessment and collection of taxes. On April 10 it was reported by the committee with amendments of a minor character, and again, on April 12, other minor amendments were re-

ported, all of which were adopted on April 16 under suspension of the rules. The bill was passed the same day by a vote of 62 to 15.

In the senate journal this bill, No. 604A, is an elusive subject. So imperfect is the record that it would be necessary to read the entire journal from cover to cover to correct omissions in the index and history of bills; and even then it may be found that the daily records of the proceedings are at fault, and not the index.

In the "History of Bills," which is supposed to be a complete abstract of all proceedings with respect to each bill, No. 604A is thus reported:

"No. 604A, a bill authorizing the appointment of a tax commission and appropriating a sum of money therein named. Received from assembly 777; assessment and collection of taxes, 777; concurrence recommended, 782; laid over 789."

Here the story stops, as the index does not show any further action except two conflicting entries, as follows: "Recalled from assembly, 826; returned from assembly, 626." This last page number should read "826," as the action referred to really appears on that page and not on page "626." This ends the recorded action of the senate on one of the most important measures considered that session.

But the assembly journal record would indicate that there was really something doing with the bill after all. On page 1129 of that journal there appears a message from Walter L. Houser, chief clerk of the senate, to the effect that the "senate has refused to concur in 604A," and other bills.

Mr. Kennan was of the opinion that the appropriation carried by the bill was the cause of its defeat, as the income of the state at that time was so moderate that the legislature was disposed to "cut corners" more closely than is the practice in this day of largely expanded resources. But the fight for the measure was a warm one and the record of the vote in the assembly showed that it was popular in that house. It is unfortunate that the vote in the senate can not also be found.

CHAPTER III.

TEMPORARY TAX COMMISSION CREATED.

The statute authorizing the appointment of the first tax commission was enacted by the legislature of 1897 and signed by Gov. Edward Scofield. The bill, No. 345A, was drawn by K. K. Kennan, and introduced by Assemblyman Merriman of the Third Rock county district on Feb. 9, 1897. It was referred to the committee on assessment and collection of taxes, consisting of N. B. Treat, chairman, Wynn Edwards, Albert R. Hall, King S. Staples, Charles Polacheck, Horace N. Polly, and Herman Schellenberger. On March 24 this committee reported the bill for indefinite postponement and two days later it was indefinitely postponed with a large batch of other bills that had been condemned by the committee.

This action would have disposed of the bill permanently had not its friends determined to make any concession necessary in order to secure the establishment of a commission. The bar to its passage was still to be found in the appropriation clause, and Mr. Kennan, having seen his work in previous years all brought to naught by this one obstacle, determined to win at any cost and informed the members that he would undertake to raise by private subscription the money required to pay the members of the commission for their work if they would amend the bill by cutting out the appropriation and pass it. His offer was accepted.

The day following the indefinite postponement of the bill it was restored to the calendar on motion of W. H. Flett of Lincoln county and recommitted to the committee on claims. On March 31, this committee reported by its chairman, George H. Ray of La Crosse, recommending that the bill be amended by striking out section 8, the section containing the appropriation provision. The amendment was adopted and the bill passed without a call of the roll.

The bill was then messaged to the senate where a few minor verbal amendments were made and it was then passed by a vote of 20 to 8, as follows:

Yeas—Senators Baxter, Davis, Dennett, Devos, Green, Lamoreaux, Mailer, McGillivray, Mills, Putnam, Riordan, Roehr, Solliday, Stebbins, Stout, Thayer, Welton, Whelan, Whitehead, Woodworth, 20.

Nays—Senators Austin, Burke, Fisher, McMullen, Pierce, Phillips, Whitman, Withee, 8.

Absent or not voting—Senators Conger, Mayer, Munson, and Youmans, 4.

This brief statement of the facts relating to the passage of the bill and the creation of the first tax commission does not give even the shadow of an idea of the amount of work required to win success even at that late date, when the subject of taxation had been under debate for more than forty years with no hope of settlement or even reasonable progress under existing conditions. It was ac-

knowledged that "something must be done." There was no dispute over the proposition that the laws must be changed and an attempt made to adopt an orderly and reasonable system of assessment and collection of taxes for the support of the government.

And yet it was impossible to secure the enactment of a law that would entail expense upon the state for the prosecution of the work of investigation that must necessarily precede any legislation along reformatory lines. Even A. R. Hall, the man who had talked most frequently and vehemently about the failure of the railroad companies to pay their just proportion of the taxes, was a member of the committee in the assembly that reported the bill for indefinite postponement. On the other hand, Senators Roehr, Whitehead, Green, Devos and Riordan, as well as Assemblyman Ray and others who were subsequently held up to public scorn as men who were opposed to the equalization of tax burdens, were the men who gave Mr. Kennan most effective and persistent aid in his efforts to secure the enactment of the law.

After its passage through the two houses the bill went to Gov. Scofield shorn of its appropriation clause and the governor made no secret of his determination to send it back without his approval. He frankly stated that he would not be put in the position of asking men competent to perform so important a work for the benefit of the state to give their time and pay their own expenses while in the state's service. He wanted a commission; he believed the taxing system should be reformed; his sympathies were all with the purposes of the measure. But he felt that the law as it stood placed him in a false position and he did not purpose going out on a begging tour in the interests of the state asking such important service gratis of any of its citizens. He believed the state should be willing to pay the cost of doing the work devolving upon a commission of this character.

In this emergency Mr. Kennan came to the front again with a letter to Gov. Scofield, which is reproduced here as it was the means of saving the bill from death by veto. This letter has never before appeared in print, but it is of so much historical value that no apology is required for inserting it in full in this review.

Madison, Wis., April 24, 1897.

"*His Excellency, Edward Scofield, Governor.*

"Dear Sir: In reference to bill No. 354A, a few words of explanation may not be out of place.

"This bill was drawn by me in 1889 and an effort was made to combine in it the best features of several similar bills which had become laws in other states. The compensation for the commissioners proposed in this original bill was $6,000. In spite of hard work on the part of myself and others the bill failed to pass—probably on account of the appropriation. Similar bills were proposed in 1891 and 1893, but I was absent from the state and no great effort was made to secure their passage.

"In 1895 Mr. O'Neil of Bayfield introduced a bill which was the same as the present 354A, except that it provided for an appropriation

of $6,000. This bill passed the assembly by a vote of about 63 to 15, and was concurred in by the senate; but in the confusion of the last day it was recalled by the senate and died there.

"No 354A, as originally introduced, provided that the commissioners should be entitled to such compensation as the governor should deem just and reasonable. When it became evident that the bill could not be passed with this provision, or, indeed, with any provision calling for an appropriation, I assured certain members that if it could be passed without an appropriation I was satisfied that there would be no difficulty in raising the necessary funds for a commission of voluntary contributions of taxpayers of the state.

"In giving this assurance I was not speaking at random, but only made the statement after I had conferred with a number of business men of large means who promised me that the money would be forthcoming when needed.

"Of course, it is possible that there are public spirited men of ability who would serve on such a commission without compensation; but there is a great amount of clerical work which ought to be done in securing and classifying statistics, etc., and my estimate of the amount needed for clerical work, stationery, postage and traveling expenses is $1,500. A much larger sum could be used to advantage but this is the minimum sum compatible with anything like thorough and efficient work.

"As to the pay of the three commissioners I estimate (on a basis of 200 days' work, say 100 days for the chairman and 50 days each for the other two members) that $2,500 to $3,000 would be sufficient to secure the services of men of such special fitness and high standing that their report would be of great and permanent value.

"While it is hardly practicable to do much within the next three days, I am confident that before the first of June (the time set for the appointment of the commissioners) I can present you with a satisfactory guarantee that the funds needed for the commission will be forthcoming.

"As you are no doubt aware, there are many features of our present taxing system that are unsatisfactory, and there is a popular demand that some practical measures should be taken to simplify and improve our present laws.

"The interests involved are enormous. We raise in this state over $15,000,000 in taxes annually and there are many intelligent men who believe that the best interests of the state require that this great subject, which affects the pockets of every taxpayer in the state, should receive more attention than is ordinarily given it by the legislature.

"It seems to me that if the taxpayers of the state want a tax commission bad enough to put their hands in their pockets and pay for it, they should have the privilege.

"Hoping that you will see your way clear to sign the bill, I remain,

"Very respectfully yours,

(Signed) "K. K. KENNAN."

With this assurance in hand, Gov. Scofield signed the bill and it became Chapter 340, laws of 1897, and he appointed Burr W. Jones of Madison, K. K. Kennan of Milwaukee, and George Curtis, Jr., of Merrill as commissioners. The first meeting of the commission was held on June 10, 1897, in the office of the secretary of state, at which time Burr W. Jones was elected chairman and K. K. Kennan secretary of the commission.

CHAPTER IV.

WORK OF THE FIRST COMMISSION.

Mr. Kennan was as good as his word, for he raised by private subscription the money required to pay the expenses of the commission. It can not be said that the commissioners were paid for their work, but their clerk hire, postage, and traveling expenses were probably all provided for, and, with the exception of Mr. Kennan, himself, some contribution toward remuneration for time expended was also made. As secretary of the commission, Mr. Kennan prepared the statistical appendixes which fill something like 100 pages of the report transmitted to the legislature in 1899 and which represents a vast amount of research work as well as compilation of tables, analyses of figures, and preparation of explanations and conclusions that must have taken much time. These tables are today of incalculable benefit to the student of the history of taxation in Wisconsin, as in many cases the figures contained therein can be found in no other place.

The main portion of the report to the legislature was prepared by the three commissioners, Messrs. Jones, Kennan, and Curtis. It is a book of 276 pages and is filled from cover to cover with important and valuable information. All three members of the commission were lawyers of ability and they brought to the task of compiling and explaining laws that made up the taxing system of this state trained legal minds. The system was analyzed, its weak points uncovered and pointed out, and suggestions for improvement in the method of assessing property were made. As the report itself is available to the student it is unnecessary to go into details here with respect to its contents.

Meanwhile there were others who were studying the subject with equal interest and it became apparent that a united effort would be made to correct one of the most serious defects in the existing system—undervaluation. The general belief that the corporations —railroads, express, sleeping car, telephone, and telegraph companies were not taxed at their true value was spreading and having its effect. It became apparent to thoughtful men that the assessed valuation of all classes of property in the state would be raised with a consequent increase in the amount of money collected in the form of taxes.

But a mere increase in the revenues of the state was not the end sought. Tax equalization, the collection from all classes of property of an equal amount of taxes to be used in paying public expenses, was the aim of all the men who originally labored to bring about a change in the taxing system. Should the taxes upon one class of property be increased, it was necessary that there be a corresponding reduction elsewhere in order that real tax reform be attained. While not publicly stated in definite terms, this idea had run through the minds of every man, private citizen and public

official alike, who had contributed to the work of preparing for a change. It is safe to say that, had it not been understood that the uncovering and assessment of large blocks of personal property and the proposed increase in corporation taxes would result in a decrease in the taxes on real property, there would have been no public interest in the movement. It was equalization of taxes that interested taxpayers, not increased revenues.

While the tax commissioners were working upon the task set for them, Gov. Edward Scofield began to look into the other phase of the problem, the receipts and disbursements of the state. On February 21, 1898, The Milwaukee Sentinel printed an article prepared by the governor on the state finances which contained a clear explanation of the sources of revenue and the manner in which the money was expended. The governor explained that it was a difficult matter to make a statement of this character because of the peculiar system of bookkeeping then in force in the state departments. As a matter of fact, there was no uniform system of accounting, the books in each department being kept independently of those in every other department. Gov. Scofield's article was the first clear explanation of the state's financial standing ever published, and it may be added that it was also the last. Of course, the reports of state officers are regularly printed in book form and may be examined and understood by citizens who are familiar with the business of the state, but the average layman, even a bookkeeper, will find some difficulty in comparing the figures from the several departments and arriving at a satisfactory understanding of the financial affairs of the state.

As a result of his investigations in the business departments, Gov. Scofield proposed two changes in the business methods of the state. He was himself a business man and could not see any reason why a balance could not be struck at any time that would show clearly and accurately the financial condition of the state, as well as the condition of each department that handled funds belonging to the state. Also he believed the legislature should be informed as to the probable needs of the state institutions at the beginning of each session in order that the appropriation might be made intelligently.

With these ideas in mind he proposed two reforms: A central system of accounting and the preparation of a budget to be presented to the legislature at the opening of each session. Having worked out his plans, he took steps to carry them into effect. He prepared a budget on his own motion. He ascertained from the several boards the probable needs of the institutions over which they presided; estimates were made of the probable expenses of the state departments for the coming biennial term; the resources of the state for the same period were given and the legislature was shown how, if the expenses were to be kept within the limits of the state's income, it would be necessary to cut some of the appropria-

tions, or levy a tax to make up the deficiency. This budget was incorporated into the governor's message.

Another feature of the message was the proposition to establish a simplified central system of accounting. Gov. Scofield did not criticise past administrations for what he considered to be the unbusiness-like methods of keeping the state's accounts. On the contrary, he explained that "with the practice of changing bookkeepers with each change of administration it has been deemed impractical for any secretary of state or state treasurer to undertake, in the few years in which he holds office, to improve the system." But, he said: "I believe the time has come when the state bookkeeping should be revised and simplified. It is possible the change can not be accomplished without extra help, as the bookkeepers in the departments named are kept fully occupied. I recommend, therefore, that the legislature consider the question of authorizing the temporary employment of one or more experts to take up the subject with the secretary of state and state treasurer and formulate a new system." He then explained at some length the inadequacies of the existing method. While he believed the state to be something more than a business enterprise, he still maintained that the business of the state in the transaction of which over $3,500,000 was handled annually, should be conducted on business principles.

When the legislature of 1899 convened, the report of the tax commission was presented for the consideration of the members of that body. As has been said, this report is available to any one who wishes to investigate in detail the work of the commission, but, for the purposes of this review the recommendation of the commission alone are of enough importance to bear reproduction here in an abbreviated form. As a preface to their summary of principal recommendations the commission said:

"In presenting the following recommendations the members of the commission desire to express their regret that the time and means at their disposal were insufficient to enable them to elaborate any general or comprehensive plan for revising and improving the whole taxing system of the state. The vast extent and importance of the subject and the practical difficulties which stand in the way of any far reaching reform can hardly be appreciated by those who have not made a special study of the subject. While the work of the present tax commission falls far short of what its members had hoped to accomplish, and will probably be disappointing to many, it is at least a step in the right direction and may form a basis for more effective work along the same lines hereafter. For reasons which are stated in the introduction to this report no attempt has been made to draft laws embodying the recommendations noted below. If any of them meet with legislative approval, it will be a comparatively easy task to put them into the form of laws.

1. The commission recommended that town taxes, exclusive of state, county and school, be limited to 2 per cent of the assessed valuation.

2. Recommended that subdivision 13 of section 776, revised statutes, which conferred powers of villages on towns in certain cases, be repealed.

3. That the law authorizing the collection of a poll tax be repealed.

4. That, with a view to preventing and remedying undervaluation by assessors, the general reassessment law be amended so that a reassessment can be compelled when under-valuation is shown, without proof that injustice on inequality has resulted and without liability to costs.

5. That the time for preparing the tax roll and turning it over to the treasurer be extended in towns and villages to the third Monday in December; that the time for collecting the taxes be extended to March 1—the town and village treasurer being authorized to charge 5 per cent from and after February 1 to March 1—and that no extension after March 1 be granted.

6. That the entire administration of the tax laws be placed in the hands, or at least under rigid supervision of capable and disinterested agents of the state, to be chosen and to have such tenure of office and compensation as to make them virtually free from the influences of political or popular favor or displeasure and enable them to give their entire time to official duty; such agents to consist of a state board or officer and such subordinate or district officers as may be necessary.

7. That an inheritance tax be levied with respect to personal property on both lenial and collateral inheritances, at the rate of 1 per cent on the former and 5 per cent on the latter, with the exception of $10.000 in the case of lenial and $200 in the case of collateral inheritances; the revenue to be paid into the state treasury.

"8. Corporations.

"Our work has led us to the conclusion that all the corporations which are taxed on the basis of earnings or on a mileage basis pay relatively less taxes than other persons and less than they would pay on the basis of value.

"For the reasons stated in the report we are not prepared either to recommend that the system of taxation be changed to the method of assessment by a state board or to decide as to the specific rates of taxation which should be fixed if the present method should be continued.

"(a) We recommend that the whole subject of taxation of quasi-public corporations be fully investigated either by a committee or by a board of state officers having full power to examine witnesses and compel the production of books and papers.

"(b) We recommend that if the present system of taxing railroads be continued a new and closer classification of rates be fixed for the purpose of preventing the inequalities which arise under the system now in force.

"(c) That the present plan of taxing railroads on the basis of mileage be discontinued.

"(d) That express companies be taxed either on the basis of value of their property in the state, including the franchise, to be assessed by a state board or on the basis of their gross earnings.

"(e) That legislation be adopted preventing the evasions of the law as to taxation, by sleeping car companies."

There were therefore, before the legislature when it convened, the report of the temporary tax commission, and the two propositions contained in Gov. Scofield's message—to establish the practice of presenting a budget at the opening of every legislative session and to reform the bookkeeping methods of the state. While the two latter propositions were not, strictly speaking, taxation matters, they related to state finances and were by their nature so closely associated with the subject of taxation that they should be considered at the same time. There were also presented in the assembly alone during the session of 1899, fifty-three bills relating to taxation.

CHAPTER V.

Permanent Tax Commission Created.

That there was no real controversy at any time concerning the necessity of tax reform in this state is fully established by the history of the bill creating the permanent tax commission. As has been said, there were differences of opinion as to the steps to be taken to bring about that reform. There always had been opposition to the license fee system of taxing railroad property. Suits had been instituted immediately after the passage of the law in 1854 providing for the taxation of railroads under the license fee system and from time to time down to the final return to the ad valorem system in 1903 attempts were made to enact laws making the change. Senator von Cotzhausen in 1873 and 1874 made a fight in the legislature for a restoration of what he termed a "constitutional system of taxation." State Senator J. V. Quarles made another fight in 1881 for the same cause. Assemblyman Hall had several times introduced bills and resolutions calling for an investigation into the subject. The proposition to increase the taxes of quasi-public corporations such as sleeping car, express, telephone and telegraph companies had been discussed at length. As has been shown, the attempt to create a tax commission had been fought over for ten years before 1899. But in all this controversy there was more dispute as to the method and plan to be adopted in reforming the taxing system than over the fact that such a reform was needed.

The bill creating the permanent tax commission in 1899 indicated, by the manner in which it was handled, that at least one point of controversy had been satisfactorily disposed of. The work of the temporary commission, paid by voluntary contributions from taxpayers, was of a character to convince the members of the legislature that it was worth while to supplement the efforts of Messrs. Jones, Kennan and Curtis by continuing the investigation into the subject along similar lines. The services of the commission had cost the state nothing; the members of that body had not been able to devote their entire time to the work of investigation, but their report contained so much information of positive value that the advocates of taxation reform were eager to take up the task where the first commission laid it down and proceed with the matter in a businesslike manner.

Bill No. 356S, 1899, was introduced in the senate by the committee on assessment and collection of taxes, Senators Whitehead, Thayer and Riordan, and referred to the joint committee on claims on March 30, 1899. April 11, the bill was reported from the committee on claims by Senators Baxter, McGillivray and Weed, without recommendation. This action was probably requested by the

originators of the bill as on the same day the committee on assessment and collection of taxes introduced a substitute bill.

April 13 Senator McGillivray moved to amend the substitute by making the time which the commission was to serve two years, instead of ten, as provided in the bill, but he later in the day withdrew his proposed amendment. The substitute bill was then adopted and the bill was passed under suspension of the rules on motion of Senator Roehr. The vote was unanimous, twenty-nine senators voting for the bill, four being absent. They were Senators Knudson, Thayer, Whelen and Whitman. But three days were required for the passage of the bill after the committee reported it and the substitute was introduced.

In the assembly the work was performed with almost equal expedition. It was messaged over to the lower house on April 13, and, having already been considered by the committee on claims, it was "read first and second times and placed in regular order on calendar." The following day Assemblyman A. R. Hall requested that it be referred to the committee on assessment and collection of taxes, which was done. That committee consisted of A. R. Hall, chairman, and Assemblyman H. N. Polley, P. A. Orton, T. J. McGrath, W. A. Barber, Thomas McDonald and John McGreer.

April 18, four days later, this committee reported the bill back with the recommendation that it be concurred in, and on the same day Mr. Hall called up the bill with the unanimous consent of the assembly. Mr. Hall then moved to suspend the rules and put the bill on its passage. The motion was carried and the bill was passed by a vote of 62 ayes, 15 nays, 23 absent or not voting. Those voting aye were:

Assemblymen Adams, Anderson, Baldock, Barber, Barlow, Becker, Buffington, Catlin, Dengel, Dodge, Eline, Flaherty, Fogo, Frost, Galaway, Germer, Gilmore, Grootemaat, Hall, Harvey, Holland, Hurlbut, Humphrey, Ives, Jensen, Johnston, Keene, Logan, McDonald, McGrath, McGreer, McLeod, Minch, Moor, Morse, Mosher, Olson, Orton, Parker, Polley, Richardson, Rowell, Rusk, J. Ryan, M. W. Ryan, Sarau, Schoenbaum, Slade, Sneddon, Sturdevant, Thiesenhusen, Thomas, True, Vandercook, Wells, Wheeler, Williams, Wylie, Zinn, and Mr. Speaker (George H. Ray).

Noes—Assemblymen Buttles, Cashin, Daggett, Dahl, Evans, Feige, Guth, Hartung, Holcomb, Johnson, Kempley, Lang, Loth, Soltwedel, and Willott.

It was clear from this action of the two houses of the state legislature that there was no political issue relating to taxation reform in this state in the year 1899. The people of the state, as well as the members of the legislature, were practically united in the desire to bring about needed changes in the laws. There were some differences of opinion as to what changes probably would be made, or ought to be made, it is true, but these differences were purely and solely between individuals—there was no organization for or against any plan for amending the existing laws.

The work of education along this line had been going on for years. Cotzhausen, Quarles, Kennan, Hall, Whitehead, Orton, Ringle, the members of the first tax commission, and members of committees in the two houses of the legislature had contributed their part to the educational campaign. Gen. Benjamin Harrison had, on Feb. 22, 1898, delivered an address in Chicago on the subject of taxation that was widely copied and read with deep interest. The Milwaukee Journal devoted column after column—at times whole pages—to this subject, and it received full credit for its efforts. In point of fact, the years between 1876 and 1900 were full of tax reform talk and the discussion was fruitful of results.

Let no one man attempt to monopolize the credit for what was accomplished in these busy years of taxation reform. As has been said K. K. Kennan, by his early advocacy of the commission plan of solving the problem and his untiring, efficient services as a member of the first commission, is probably entitled to more credit than should be given to any other one citizen. He was the pioneer and he continued in the work until the permanent commission was appointed. He made sacrifices that no citizen should be called upon to make to his state, because they were really unnecessary, and of late years a strenuous effort has been made to ignore his work and minimize his services and those of others who were instrumental in working out the problem—so far as it has been worked out.

It is not best to leave this particular period without first clearing up for the benefit of the reading public the record of the beginnings of taxation reform in Wisconsin. This is necessary because extravagant claims have been put forth and widely believed that are not borne out by the facts. In the Voters' Handbook, a political pamphlet circulated in the campaign of 1902 in the interests of the then state administration, this statement is found on page sixty-eight:

"The first man in the state of Wisconsin, indeed, in the whole country, to take the public platform and lay hold of the question of taxation in such a broad, comprehensive and fearless way as to arouse general attention was Robert M. La Follette. Assailed violently by that portion of the press which takes its orders from the railway lobby, but could neither deny his facts or answer his arguments, he held firmly to his course. His voice was heard in every part of the state, ringing clear and strong above the storm which beat upon him alone. It is an easy matter to espouse a cause if a majority are for it. It is not difficult then to be wise with tardy counsel or brave with petty criticism. But it tries the iron in a nature to lead in advance of all support year after year in a losing fight against all odds. It tests the wisdom and judgment of statesmanship to determine when and how to wage contest against great corporations which control legislation, against the allied political machine of state and county organization, against a press which is subservient to its master."

As evidence of the truth of this statement the assertion is made that Mr. La Follette delivered an address before the Tower Hill

chautauqua, in which "he discussed the relation of corporations to legislation, their power in government, exercised through the lobby on senators, members and executive, in controling action on taxation and other important questions affecting the interests of the people." It is a well known fact that Mr. La Follette did deliver an address at the time and place mentioned, in the summer of 1897.

During the session held the previous winter the legislature had created the temporary tax commission composed of Burr W. Jones, K. K. Kennan, and George Curtis, Jr. The spectacle of Mr. La Follette standing like Ajax defying the lightning would be an interesting one if it were a fact that he was the only man in the state, "indeed, in the whole country," who was interested in the subject of tax reform. But Jones, Kennan, and Curtis, none of them a candidate for office, it should be remembered, were devoting their time to a practical study of this question at the time when Mr. La Follette is represented as sending his clarion voice over the state, "ringing clear and strong above the storm which beat upon him alone."

And, as a matter of fact, Mr. La Follette's chautauqua address was not devoted to taxation. It was an attack upon the corporations. It was, in effect, his Ann Arbor speech, or, to speak more accurately, the Ann Arbor address was a modification of the Fern Dell speech, a toned down, polished, adapted address made to fit and fill the ears of university students. The Fern Dell speech was delivered before an audience made up largely of farmers and it was designed to fire their blood and cause them to rise in their wrath and sweep the corporations into their proper places. This was to be accomplished by sending delegates to the next state convention who would help to nominate Mr. La Follette for governor.

But there was little about taxation in that speech, or either of them. Mr. La Follette had not made an exhaustive study of the subject at that time. Even in 1901, when he became governor of the state and wrote a message which he read to the legislature with great dramatic effect, he had not formed any well defined opinions on the subject of taxation, and so far from gathering his strength for a mighty effort and, alone and unaided, pushing the "storm" which had "beat upon him alone" over into another state or out into the ocean beyond, he mildly advised the members of the legislature to be careful, informing them that, according to figures furnished him by the bureau of labor and industrial statistics, "the railroad companies had been fairer than the average individuals, who, as to the great mass of personal property assess themselves."

So far from being the only man in Wisconsin to take an interest in the taxation reform movement in that particular period, Mr. La Follette was probably the least important factor in that movement. It will be remembered that there was no subject of

discussion that excited so much public interest during the interval between the legislative session of 1897 and 1899. There was no political issue, it is true, but there was a warm debate as to the wisdom of steps already taken and the character of future efforts along the same line. One of the most fruitful causes of debate was the action of Gov. Scofield and the legislature of 1897 on the express and sleeping car taxation bills passed by the latter in the closing hour of the session and vetoed by Gov. Scofield on constitutional grounds. The newspapers were full of the discussion; editorials were written by the editors of newspapers all over the state and private citizens wrote letters to the press expressing their opinions on the subject.

CHAPTER VI.

THE EXPRESS AND SLEEPING CAR TAX BILLS.

The history of the bills about which there grew up an acrimonious controversy in 1898 is an interesting one. No. 129 A. "An act to define express companies and to prescribe the mode of taxing the same, and to fix the rate of taxation thereon;" and No. 619A, having for its object the levy and collection of a tax in the form of a license fee on palace, drawing room and sleeping car companies, were introduced by the Hon. J. O. Davidson, then a member of the assembly and now governor of the state, in January, 1897. The record of one of these bills will serve the purposes of this review, as they were both successfully urged for passage and both met the same fate.

No. 129A, was introduced by Assemblyman Davidson, Jan. 28, and referred to the committee on assessment and collection of taxes, in which committee it remained until March 26, when it was reported back with an amendment. On March 30, Mr. Davidson himself offered an amendment in the form of a substitute, which, together with the bill was laid over until the following day.

When the matter came before the assembly the next day, Assemblyman Latta attempted to have the bill and substitute referred to the committee on assessment and collection of taxes, but his motion was defeated by a vote of 14 yeas to 74 nays, which shows that the measure was a popular one in that house. The substitute was then adopted and the bill as amended was ordered to engrossment and third reading.

On April 9, both committees having reported the bill correct, the measure was passed by a vote of 83 yeas to 3 nays, the members voting "no" being Assemblymen Latta, Polley, and Utt.

On April 12 bill No. 129A was messaged over from the assembly to the senate and referred to the committee on state affairs and on the fifteenth it was reported for concurrence with an amendment. The next day it was rereferred to the committee on state affairs which body considered it until April 20, when an amendment in the form of a substitute was reported and recommended for passage.

On April 21, the amendment first submitted by the committee on state affairs was considered and rejected because a more satisfactory form of amendment had been incorporated into the substitute bill prepared by the same committee. The substitute was adopted and the bill ordered to third reading. The following day the bill was read a third time and concurred in without a call of the roll.

The measure was then messaged back to the assembly and on the same day the senate amendment in the form of a substitute

was concurred in on a division of the house. The roll was not called. All this occurred on the last day of the regular session, April 24, 1897, and both houses adjourned the same evening, to meet again in special session later for the purpose of adopting the revised statutes then in the hands of the revision committee.

The express company tax bill went to Gov. Scofield with other measures passed during the closing hours of the session and *was signed by him.* This last statement is an important one in view of subsequent events. That the governor signed the bill may not generally be known, but such is the fact. It is probably that, if the file of original bills in the office of the secretary of state were examined, the express and sleeping car tax bills would be found with Gov. Scofield's signature attached, but with a line drawn through it.

Gov. Scofield erased his signature when he found that the bills had been irregularly passed. While they were still lying on the governor's desk, M. J. Jeffris of Janesville encountered Walter Houser, chief clerk of the senate, in the capital park. Houser remarked that the governor had made a mistake, or had got himself "into a hole," or something to that effect, and Jeffris asked for particulars. He was informed by Houser that the express and sleeping car bills which had been signed by the governor had been irregularly passed and would be declared void by the courts.

Mr. Jeffris, believing the governor was entitled to a knowledge of the facts, immediately called at the executive chamber and informed Gov. Scofield of his interview with Houser and the nature of the statements made by that officer. The journals of the two houses were sent for and it was found the statements were correct. The roll had not been called on either bill. Gov. Scofield then erased his signature from the original bills.

It would be unprofitable and a waste of valuable space to attempt to explain in detail why Chief Clerk Houser felt justified in concealing from the governor facts in his possession, of the importance of which he was fully conscious, and to a knowledge of which the governor was entitled. The Wisconsin factional war had not at that time become general in its scope or openly bitter in its character. The La Follette faction, to which Houser belonged, was unfriendly to Gov. Scofield, it is true, but that would not excuse an employe of the senate in deliberately concealing from that body and from the governor important facts that, kept secret until it was too late to correct the mistakes, would invalidate two of the most important measures passed by the legislature during the session.

But, while Walter Houser's motives may not definitely be known, it is a significant fact that the two taxation bills referred to were made the principal issue by the faction opposed to Gov. Scofield's renomination in 1898. An attempt was made to convince the people of Wisconsin that Gov. Scofield was opposed to

taxation reform, or, at least, to the adequate taxation of corporations. It is possible that even at that early date campaign material may have been, in the eyes of the leaders of the rapidly increasing "progressive" faction, of more importance than wholesome legislation, even when that legislation was sorely needed and expected by the people of the state.

The character of the campaign literature required is illustrated by the following quotation from the pamphlet, "Gov. Scofield's Record, as Shown by His Official Acts," page 20. This pamphlet has previously been referred to. It has published "by direction of the Republican club of Milwaukee county" and professes to give the record of a republican governor. Referring to the votes of the express and sleeping car taxation bills this republican club said:

"These vetoes were sent to the legislature at the adjourned session, when it met solely for the purpose of taking action upon the revised statutes. Many members at that time did not return, and the governor knew that no bills could be introduced except by permission under a joint resolution of both houses, and a three-fourths vote of all the members in either house in favor of such resolution. *When it is remembered that the governor stated to the author of these bills, the Hon. J. O. Davidson, before any constitutional question was raised that he would veto them; that before vetoing them he was in extended conference with 'Bob' Luscombe, the lobbyist against them; that if he asked for any opinion of the attorney general, no opinion upholding his veto was ever given by that official;* that at this time he was using the free passes of these corporations, what is the inference we must draw from the fact of these vetoes?"

As a sufficient answer to the first of these charges the following letter from Gov. James O. Davidson to the writter of this review will suffice.

"My Dear Sir—I have your favor of August 9 and note carefully your inquiry with reference to the following quotation from your letter: 'The governor (Scofield) stated to the author of these bills, the Hon. J. O. Davidson, before the constitutional question was raised, that he should veto them.'

"In reply permit me to say that I have no recollection of any such conversation between Gov. Scofield and myself.

"I am, very truly yours,

"J. O. DAVIDSON."

Gov. Davidson is credited with having an excellent memory. His private secretary, Senator Munson, says the governor has the best memory for facts and details of any man he has ever known. It was M. G. Jeffris with whom Gov. Scofield was in consultation before vetoing the bills, not "Bob" Luscombe. That incident already has been explained. It was lawful and the custom for officers to use passes at that time.

Having erased his signature from the bills, Gov. Scofield on April 26 wrote a veto message which explains itself and which sub-

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[Note—The lines in italics are printed with underlining rules in the original pamphlet to add emphasis to the statement.]

sequently became the subject of heated controversy. That message in full is as follows:

"STATE OF WISCONSIN,
"Executive Office, Madison, April 26, 1897.

"*To the Honorable the Assembly*:

"I have the honor to return herewith, without approval, bill No. 129A, originating in the assembly, entitled 'An act to define express companies, to prescribe the mode of taxing the same, and to fix the rate of taxation thereon.'

"The bill is returned for the reason that it failed of proper enactment. In its passage there was disregarded the very explicit direction of the constitution, that in the passage in either house of the legislature of any law which imposes, continues, or renews a tax * * * the question shall be taken by the yeas and nays, and three-fifths of all the members-elect to such house shall in all cases be required to constitute a quorum.'

"To approve a measure so plainly and vitally defective would be to invite litigation and subject the state to unnecessary expense.

"I desire to call your attention to the importance of this measure, and also to that of bill No. 619A, and to urge upon you the necessity of properly enacting both bills before the adjournment of this session.

"If we are to maintain in this state a righteous system of taxation, it is necessary that we see to it that the large corporations doing business within our borders and receiving without discrimination or stint the full protection of our laws shall not escape paying their just share of the expenses of government.

"Respectfully,
"EDWARD SCOFIELD,
"Governor."

When the legislature met in August to receive the report of the committee appointed to revise the statutes, these bills came up again. But a controversy immediately arose between the two houses as to the best method of handling the matter. The senate proposed to reintroduce the bills and pass them in a manner that would dispose of all doubt as to the regularity of the proceedings; the assembly proposed to pass them over the governor's veto. The friends of the measures in the senate contended that even were the bills passed notwithstanding the governor's objection, the irregularities in the first passage would not be cured and the enactments would still be unconstitutional. In their opinion, it was best to remedy the faults found in the proceedings by the governor and not attempt to override his opinion. For these reasons the proposition to pass the bills over the governor's veto was defeated in the senate by a vote of yeas 17, nays 12. The record shows that several of the senators that later became strong partisans of Gov. Scofield, and who were then friendly to him, although there was no open war being waged on him at the time, voted in favor of the motion to disregard his veto, but the two-thirds majority was not secured. The vote was as follows:

Yeas—Senators Baxter, Conger, Dennett, Fisher, Green, Mailer, Mayer, McGillivray, Munson, Putnam, Roehr, Solliday, Stout, Whelan, Whitehead, Withee, and Woodworth—17.

Nays—Senators Austin, Lamoreaux, McMullen, Mills, Pierce, Phillips, Riordan, Stebbins, Thayer, Wilton, Whitman, and Youmans—12.
Absent or not voting—Senators Burke, Davis, and Devos.

In the assembly, A. R. Hall was the leader of the members who were in favor of passing the bills over the governor's veto, and he succeeded in carrying his point. Mr. Hall was one of the best, if not the best, parliamentarians in the legislature, but he was not a lawyer. In his opinion the objections urged by the governor to the manner in which the bills originally were passed were not well taken, or he believed that the action he proposed would cure the defects pointed out. At all events that was the course he proposed and the one the assembly elected to follow. When the senate refused to stand by the assembly, however, it became necessary to adopt other measures.

After the senate voted down the motion to pass the bill notwithstanding the objections of the governor, Senator Green of Milwaukee introduced a joint resolution designed to cover the case. This resolution and the action taken upon it are important, as it clears up many disputed points in the history of the measures. It was introduced by Senator Green the day the attempt to pass the bills over Gov. Scofield's veto failed, Aug. 19, 1897, and was as follows:

"Joint resolution No. 83S.

"Resolved by the senate, the assembly concurring, That Senator Munson be permitted to reintroduce the two bills vetoed by the governor relating to the taxation of sleeping car and express companies.

"First, a bill to define express companies and to prescribe the mode of taxation thereon.

"Second, a bill to provide for the taxation of owners and lessees of parlor cars, drawing room cars, and sleeping cars.

"The communication from his excellency, the governor, in regard to these bills calls your attention to the importance of these measures, and also the importance of enacting these bills before the adjournment of this session. The passage of these bills in a correct and legal manner does away with the objections of his excellency, the governor, and will then, without doubt, meet with his approval."

This resolution passed the senate by a vote of 28 yeas to 2 nays, Senators Youmans and Lamoreux voting against it, while Senators Burke and Davis were absent. It is clear from this that there was no disposition on the part of the senators, with the exception of the two who voted against the resolution, to oppose the passage of the measures in a legal manner, and Gov. Scofield was pledged by the language of his veto message to sign them were they legally passed.

But there was trouble in the assembly. When the joint resolution came up in that body the same day, it was met with propositions to amend, to substitute another resolution, and to delay, notwithstanding the fact that the session was about to close. Mr. Hall proposed a new resolution in the assembly authorizing Mr. Davidson to introduce two entirely new bills, whereas the senate resolu-

tion provided for the reintroduction of copies of the identical bills that already had been favorably acted upon by the two houses. There ought to be no question of the passage of the old bills; there was grave question whether new bills would receive the support of enough members of the two houses to pass them. This was one mistake by Mr. Hall.

Another mistake was in attempting to change the title of the bills so as to avoid the necessity of calling the roll, which change was to be effected by leaving out the words "tax" and "taxation" entirely. Mr. Hall's resolution was defeated, yeas, 28, nays, 53.

Mr. Ray then introduced a resolution, "that Mr. Davidson be permitted to introduce a bill to license express companies and a bill to license owners of drawing room cars, sleeping cars, and palace cars." This resolution was adopted by a vote of 52 yeas to 23 nays.

Assemblymen Stone and Hall then attempted to have the senate joint resolution amended, Mr. Stone proposing to substitute Mr. Davidson's name for that of Senator Munson, and Mr. Hall demanding that all except the paragraph allowing Mr. Davidson to introduce two bills be stricken out. Both of these motions were lost. The senate resolution was then concurred in by a vote of 81 yeas to 1 nay.

All of this maneuvering cost time and time was an essential item, a fact clearly demonstrated by the failure of the bills to pass a second time. So much time was wasted that it was too late to work them through after the resolution was passed. All other work of the session had been completed; there was nothing to do but pass these bills, and the members scattered to their homes without taking action on them. When the promoters of the movement to re-enact them found the way cleared for the bills there was not a constitutional quorum present and the whole matter was dropped.

In 1899 the express and sleeping car tax matters came up again in the form of bills introduced by the senate committee on assessment and collection of taxes. There were, in fact, four bills, later known as the "Whitehead bills," as follows:

No. 100S, providing for an ad valorem assessment for taxation purposes of express companies.

No. 101S, providing for a similar tax on sleeping car companies.

No. 102S, for the taxation of freight line companies.

No. 103S, for the taxation of equipment companies.

All of these bills were prepared by the senate committee on assessment and collection of taxes, of which Senator Whitehead was chairman. It is a peculiar fact that, while the permanent tax commission had not yet been created and the plan for making an ad valorem assessment of corporation property had not yet been perfected, these bills, the first of the kind ever drawn in this state, have required little amendment since they were enacted into law.

Another important point with respect to these bills was the fact

that there was no opposition to them in either house of the legislature. Had taxation been an issue at that time, it is not reasonable to suppose that four taxation measures could be presented to and passed through both houses of the legislature without opposition. The bills were introduced Feb. 9, 1899, and passed through the routine course of such measures, finally coming up for passage in the senate on March 22. The roll was called and thirty-two votes were recorded in favor of all of the measures, one senator Fred Dennett, being absent.

When these measures came up in the assembly they were referred to the judiciary committee, consisting of W. G. Wheeler, P. A. Orton, L. J. Rusk, L. M. Sturdevant, Charles M. Catlin, A. W. McLeod, G. E. Vandercook, L. C. Harvey, W. E. Hoehle, George Ela, Francis Eline. This committee reported a few verbal amendments and the bill then went to the committee on assessment and collection of taxes made up of the following assemblymen: A. R. Hall, H. N. Polley, P. A. Orton, T. J. McGrath, W. A. Barber, Thomas McDonald, John McGreer. This committee also recommended verbal changes.

On March 28 the bills, as amended, passed the assembly, all members present voting in the affirmative. There were 75 votes for the bills and none against them. Not much controversy there!

The bills then went back to the senate and the assembly amendments were concurred in by a unanimous vote of all senators present. They then went to Gov. Scofield, who signed them, and they became chapters 111, 112, 113, and 114, laws of 1899.

These were all "progressive measures," but they were not written by the men who afterward adopted the title of "progressive," nor did they receive their main support from that class of legislators. By common consent Senator Whitehead's name was given to all four bills and the laws after they were passed were called the "Whitehead tax laws."

And these taxation reforms were accomplished without opposition at a time when Robert M. La Follette is pictured as standing grandly and courageously for tax reform while the storm of opposition beat upon him alone. The truth is not always heroic or melodramatic, but plain common sense teaches that one ounce of truth is worth more than a ton of melodrama when historical accuracy is desired. In political campaigns, however, heroics cut an important figure at times. They have loomed large in Wisconsin politics during the last ten years.

CHAPTER VII.

The Discussion Becomes More General.

The facts related demonstrate conclusively that the subject of taxation was not a political or factional issue at that time. In point of fact, it would appear from the record that, so far as the need of taxation legislation was concerned, the legislature was practically a unit. If any member was to blame for the failure to re-enact the two bills mentioned at the adjourned session of the legislature in 1897 that member was Mr. Hall himself, one of the most active, enthusiastic, and sincere tax reformers of that period of the state's history. But Mr. Hall was not particularly friendly to Gov. Scofield; he had opposed his nomination the previous year and his action in the assembly clearly indicates that it was his wish to take from the governor as much as possible of the credit due for the enactment of this important taxation legislation.

It is true that, in the campaign of 1898, Gov. Scofield was mercilessly attacked and criticised for vetoing the two measures referred to. An attempt was made to show that the bills in question were not tax measures and that, therefore, his constitutional objections did not apply. They even went farther and asserted that "if the charges which the supporters of this legislation bring against the governor are true, then he is the victim of, or a party to, the greatest conspiracy to defraud the people in the history of the state."

Furthermore, it should be remembered that the language quoted was used in a pamphlet attack upon Gov. Scofield, not in an effort to enact taxation legislation. The records of the legislature, the messages of Gov. Scofield, the columns of the newspapers of the day may all be searched in vain for evidence that there was a political issue or a factional division on the subject of taxation legislation. There were differences of opinion with respect to the character of the legislation to be enacted in some cases, but in the case of the two bills mentioned there was no such difference that was worthy of consideration. The bills were carelessly passed, it is true, and the irregularities were, in the opinion of the governor, who approved of the purpose and form of the two bills, of sufficient gravity to make them of doubtful constitutionality. He urged that they be regularly and lawfully passed. The failure to follow his suggestion was due to a mistake by Mr. Hall, who miscalculated the amount of time that might be wasted in playing politics without endangering the passage of the measures.

It was during this period that the factional dispute that was to break the republican party of Wisconsin into two rival camps had its first violent outbreak—an unsuccessful one, by the way. But the dispute was not one of principle, or measures for the public good. It was purely a personal matter. The issue as a personal

issue as well. It was under the leadership of Robert M. La Follette and it was made up of the radical members of the party. Its object was to advance the political fortunes of Mr. La Follette. Incidentally some of the men who enlisted in his cause expected political advancement for themselves. There were no real issues that could be appealed to to win support, so they invented issues.

Up to the time of the adjourned session of the legislature of 1897, at which the two bills in question failed of passage because of Mr. Hall's ill advised delays and obstructive motions, Mr. La Follette had never mentioned the subject of taxation in any of his public addresses. He never visited the statehouse during the four years Gov. Scofield served as the state's executive; he never appeared before a legislative committee in favor of tax legislation or legislation of any character. With a few noteworthy exceptions, the men who later joined the La Follette faction were men whose conspicuous inactivity in public life was their one distinguishing characteristic.

Meanwhile, as has been shown, the first tax commission had been appointed for the purpose of investigating the subject and making recommendations to the legislature of 1899. The first attempt adequately to tax the express, sleeping, parlor, and drawing room car companies had, like many first attempts along new lines of legislation, failed through no deliberate fault of its promoters and not because of any opposition on the part of enemies, to be taken up at the next session of the legislature and put through without opposition. Already a movement was on foot to increase the taxes of insurance companies and the impression was gaining ground that the railroad companies would soon be required to increase their annual contributions to the state treasury. And all this had been accomplished without a campaign, without making the subject an issue. It had been accomplished because the general public, men in public life and private citizens, were becoming dissatisfied with the old, crude, illogical system of general and personal property taxation that had been in force since the admission of the state. This dissatisfaction was manifested, as it had been in the past, by the number of taxation bills introduced at the legislative session of 1897, there being seventy-four bills in the assembly and fifteen in the senate, all relating to taxation.

But there were other tax measures presented for the consideration of the legislature in 1899 about which there was more difference of opinion than the ones already noted. Two bills in particular, both introduced by Judge P. A. Orton of Darlington in the assembly, one proposing a change in the rate of taxation of life insurance companies, and the other increasing the rate of taxation imposed upon the smaller railroads of the state, whose taxes previously had been merely nominal.

These bills, as was natural, roused antagonism on the part of the interests affected. The Northwestern Mutual Life Insurance

Company, the one principally interested, sent a delegation to Madison to oppose the measure. By the provisions of the bill the Northwestern Mutual company was to be assessed at the rate of 1 per cent on all its income, exclusive of rents from real estate and interest on government bonds. It was estimated at the time that this change in the law would increase the taxes of that company alone from $40,000 to approximately $250,000. As a reason for considering this tax excessive Judge H. L. Palmer, then president of the company, in a letter to the Milwaukee Journal April 7, 1899, said:

"A grievous injustice of the bill is that it imposes a tax here in Wisconsin upon the same income upon which the company is required to pay taxes in the states from which that income was derived. To make the point clear, the company was taxed in 1898 in thirty states upon the premiums received in those states. Premiums constitute a large part of the company's income. Although that part of the income contributed by citizens of those thirty states has been there taxed, the bill proposes to tax that same income over again in this state, and for the benefit of this state, thus presenting a flagrant case of double taxation. Is this just? Is this right toward the policy holders of the company?"

At the same time, Judge Palmer did not contend that no increase in the rate of taxation should be made. He suggested that his company would gladly meet the members of the tax commission for the purpose of endeavoring to find some common ground of agreement for the settlement of the disputed question and offered to afford the members of the commission every facility for the examination of the books of the company in order that they might arrive at an accurate understanding of its business.

This letter from Judge Palmer was the inspiration for a flood of general comment on the part of the state press mostly favorable to the position taken by the president of the largest corporation in the state, the Northwestern Mutual. It was argued that the legislature should be fair—as fair as Judge Palmer professed himself to be. The fact that this great corporation was willing to meet the members of the legislature or the tax commissioners half way was considered to be an evidence that a way of settling the vexing taxation problems had been found. The Milwaukee Journal, the paper that had called out Judge Palmer's letter by its daily comments on the taxation reform movement and its strenuous support of Gov. Scofield's public and official utterances on the subject, was jubilant at the prospect of immediate reform, or, to speak more accurately, the prospect of material progress toward ultimate reform, but it did not counsel radical action. In the introduction to Judge Palmer's letter it said, in part:

"Up to this time the press and public have paid little attention to the details of the proposed legislation, but have been interested principally in winning what they believed was a fight to establish a principle on which the question of tax reform hinged largely. President Palmer's letter admits the principle, and now will be discussed the details of the bill to be enacted into law. The legislature has so far shown itself to be conservative, and will doubtless listen to the Milwaukee company's

complaint as to the injustice of the Orton bill. The people have been fighting for just legislation, not radical legislation in this matter, at the very beginning of the work."

As has previously been explained, the "people" had not been fighting at all. Had they been fighting there would have been some evidence of it in the previous campaign. As a matter of fact, both parties had called for tax reform legislation in their platforms.

The Milwaukee Sentinel, at that time maintaining an underground connection with Mr. La Follette and ministering to his political comfort whenever possible, opposed the Orton insurance tax bill. Like the journal, it believed an increase in the tax of the Northwestern Mutual might well be demanded, but it was opposed to so material an increase as was proposed by the Orton measure. In several editorials printed early in April, 1899, it criticised the bill severely as indicating a disposition on the part of its author to burden the Northwestern Mutual with an excessive tax. Other newspapers throughout the state appeared to be less positive even than The Sentinel and Journal. They were in favor of increased corporation taxes, believing the first tax commission was correct in its opinion that the public service corporations were not paying at the same rate that other classes of property was taxed. But in no case did they appear to have formed definite opinions as to the amount of taxes it would be fair to collect from the insurance companies or any other corporations.

This tentative position of the public press is explained by the fact that the editors did not have sufficient data upon which to base an intelligent belief. In this connection, the address delivered by Senator Whitehead in support of the tax commission bill when it was presented to the senate by his committee is to the point. It has not been the practice in this review to make long quotations from public documents, but the address in question, delivered at a time when the questions—numerous and involved—before the legislature were being considered by men who were later criticised because they had not already disposed of them, gives such a vivid picture of the real situation that the temptation to reproduce it in full is irresistible. The report of the speech is taken from the Milwaukee Journal for April 15, 1899. Senator Whitehead said:

"When the governor's message came in at this session of the legislature it contained a reference to the tax commission appointed under the act of 1897, commending the work of the commission and calling the attention of the legislature to the importance of making some provision for the continuation of the work of that commission.

"When the message was read the chairman of the judiciary committee introduced a resolution referring the portions of the governor's message pertaining to matters of taxation to the standing committee on assessment and collection of taxes. As the discussion on other important tax bills proceeded before the committee, it became more and more apparent to the minds of those who composed your standing committee that the subject of taxation was one that required more than the passing attention which the legislature could give to it, and the recommendation

contained in the governor's message grew in importance in the minds of the members of the committee. As soon as the bill could be prepared it was introduced, carrying out the recommendation made by the governor in his message for the appointment of a commission.

"There have been forty-two bills in the senate pertaining directly to matters of taxation, which would occupy the attention and thought of such a commission as this bill contemplates. There were introduced on the other side of the hall seventy bills of this character; bills referring to the taxation of all kinds of property, and the taxation of all kinds of corporations, and I might almost say, by all kinds of methods. Almost the whole subject of taxation has been opened up here in this session of the legislation by this great number of bills which have been introduced and which have passed or are now passing through the hands of the committees.

"Gentlemen, what is to be the result when this condition is so well understood? Both of the political parties in their platforms make reference to this great subject. They speak sometimes in terms of reproach because taxes are so heavy; they speak sometimes in terms of condemnation because so much property and so many corporations and individuals are escaping taxation altogether.

"There has been for the last forty years in the legislatures of the different states an animated discussion going on, as there has been here, with reference to the subject of taxation. Twenty-four different states have had their commissions. But the trouble with these tax commissions has been, as it has with the tax commission we have had ourselves, that the result was merely literature, and I venture to say that it lies unopened and unstudied on many of the desks of members of the legislature. The recommendation of the governor to this legislature is for a tax commission that will do something, and that is the purpose of the committee.

"We have the problems in our state as we find them discussed in the tax reports of Massachusetts, New York, and New Jersey. The results of tax commissions and tax investigations have been followed by the establishment of permanent departments, and the results to the people are satisfactory, because property is brought from its hiding places by the millions and the burden of taxation begins to be distributed with some sort of equality and with some sort of regard for the ability of the taxpayer to pay the taxes.

"The bill provides, Mr. President, for the appointment of a commissioner, for an assistant commissioner, and still another assistant and it provides for a term of office of ten years. And it provides salaries commensurate with responsibility. We have seen in our committees here this last winter men who stood before us as the representatives of these great corporations, whose salaries were probably three times the salary which this bill provides to be paid to the commissioner. We desire a representative of the people when these great questions are discussed before the committees of the legislature. We desire a man who has made a study of the subject—not that he might write a book, but that he might come in and be the right hand of power of the legislature when it takes hold of this great burden and attempts to lay it with some sort of equal distribution upon the shoulders of those who are to carry it.

"These men who have appeared before us and discussed these bills for the taxation of their corporations, are men of the highest standard of ability and intelligence. They are masters of the subjects given to their care. We of the legislature, coming from our homes and our places of business, know nothing except that taxation is jumbled up, that it is patchwork, and that the legislation has been guesswork, and that the decisions of the courts lead us into confusion, not because the courts do not know the law, but because act follows act in such rapid succession

that the law is continually unsettled. Mr. President, if we have a citizen of this state intrusted with the responsibility, and to whom is given the duty and the opportunity to take hold of this subject with the spirit and power which its importance requires, then we shall see in future sessions of the legislature a man on the floor before the committee representing the cause of this state who knows what he is talking about, and who knows also what those who represent these other interests are talking about.

"Mr. President, we are greatly concerned at this moment with the great question of taxation involving a great corporate interest in our state, and we are anxious to do right. We are anxious to protect the interests of the people and we are anxious that no wrong be done to the great corporate interest. The discussion has gone on here for days in the legislature before the committees and on the floor of the assembly, and it is before us now, and for my part I don't know, and I doubt very much whether my fellow senators know, what is right to be done in the matter. And it seems to me, Mr. President, that the time has come for the legislature of Wisconsin to heed the admonition of the governor.

"Mr. President, the subject is before us; it is in the minds of the legislatures of every state. I don't know where we shall find a solution of it: it will only be found in the mind and in the study and in the activity of some man. It will never come by chance. It will work out in human experience. It will be worked out only by the patient effort of men clothed with authority and responsibility and having in their hands the honor and the glory of the state. Mr. President, we don't wish Wisconsin to get the reputation of overtaxing its industries. On the contrary, we desire that our state should invite industries because of the justice of its tax laws. It is not a question of how much tax we can wring from this corporation or that, or from this individual or the other. It is a question of a just tax.

"I think I see, Mr. President, if this commission should be established, a directing mind. I think I see these assessors, without experience and without knowledge of these confused laws which mix up the lawyers, without knowledge of these decisions of the courts, I think I see these men coming to the commission for a word of advice. I think I see these commissioners going up and down the state, into different counties, and studying, not a theory of taxation, but a condition of taxation. I see these men who represent this great state in contact with the citizens, and with those who are levying the taxes and who are spending the money after the taxes have been collected. And when these men come before the committee of the legislature with that kind of information, Mr. President, they come with the information which the members of the legislature want; the only information that will enable them to frame laws that will meet the conditions which exist. We are to be students of our own conditions as they are—of those laws which stand upon our statute books.

"We have within our borders the finest opportunities for capital. We have within our borders the finest opportunities for energy and intelligence. We have a population who have made out of this state a state where one might be proud to dwell, and one whose citizenship one might be proud to claim. And yet there is this continual complaint, not alone in ours but in all the states, of the ill distribution and lack of distribution of the burden of taxation. The little state of Massachusetts spends $30,000 a year on her tax commissioner, and he, with his agents and servants, goes into the factories and shops and studies the conditions as he finds them there. He is able to determine from the rate that men pay for wages, and the rate that they pay for material, and the prices they get for their product, whether these corporations are investments that pay or whether their investments do not pay, and the taxes of

the state are adjusted in an equitable and able manner with the men who have their capital invested and who are making the state. And my mind reaches forward to time such conditions as that — my mind looks forward, under the operation of a law like this, or a better one, when the time shall come that the legislature shall frame a better one, to the time when order shall come out of confusion, when there will be a directing mind; when the resources of the state will be used, not to impoverish the people by taxation, but to bring in wealth and capital and industry and make our state glorious indeed."

But the legislature did not postpone all action until a commission could be appointed. The Orton insurance taxation bill passed both houses with but few minor changes and was approved by Gov. Scofield. At the session of the legislature held in 1901 it was found necessary to make certain changes in the law in order to relieve the Northwestern Mutual from the effects of retaliatory legislation in other states, but the law is still on the statute books substantially in the form in which it originally passed, and the tax now paid by the Wisconsin company amounts to more than $300,000 annually.

The second Orton bill was designed to increase the license fees paid by the smaller and less important railroads of the state. An attempt was made to amend the bill by A. R. Hall, which failed, and then Judge Orton himself proposed to amend the measure by increasing the license fee to be paid by railroads of the first class to 5 per cent of their gross receipts, which amendment carried in the assembly. The bill was subsequently defeated in the senate, of which more will be said under the proper heading.

The recommendation of the tax commission that a tax on inheritance be levied by law was adopted, and chapter 355, laws of 1899, "An act for a tax on gifts, inheritances, bequests and legacies in certain cases," was passed. This law was later declared unconstitutional by the Supreme court and all taxes collected under it were returned.

CHAPTER VIII.

A. R. HALL AND RAILROAD TAXATION.

While Assemblyman A. R. Hall, of Dunn county was not the first to propose an increase in the amount of taxes collected from the railway companies, there can be no questioning the truth of the statement that he was the most persistent and uncompromising advocate of that proposition in the state during the years immediately preceding the adoption of the ad valorem system of taxation by the legislature in 1903. It is true that Mr. Hall did not himself advocate the ad valorem system, but he did, in addresses delivered in the assembly and in communications to the press, present an estimate of the actual value of railroad properties as a basis or justification of his proposed increase in the percentage to be paid as a license fee, as follows:

1. Six per cent of the gross earnings of all roads whose gross earnings exceed $5,000 a mile yearly.
2. Five and a half per cent of the gross earnings of all roads whose gross earnings exceed $4,500 a mile.
3. Five per cent of the gross earnings of all roads whose earnings equal or exceed $4,000 a mile.
4. Four and a half per cent of the gross earnings of all other roads.

Mr. Hall began his campaign for increased rates of railroad taxation early in his legislative career, but he was handicapped. It was his misfortune to cause the impression to be spread abroad that he was an enemy of the transportation companies and that it was his purpose to harass the objects of his displeasure in every possible way. He began his campaign for investigation when he first went to Madison in 1891 as the member from Dunn county. Having served a number of years in the Minnesota legislature and three terms as speaker of the Minnesota assembly, he was not obliged to wait until he had "learned the ropes" before taking up his self appointed task. It is not necessary to go into the full details as to the war waged by Mr. Hall on the railroads, and it is merely mentioned here as an explanation of the reputation as a railroad baiter which attached to him at the beginning of his legislative career in Wisconsin and stuck to him until the end.

An event which probably added weight to the belief that Mr. Hall was merely "making trouble" for the transportation companies was the outcome of an investigation caused by his own motion in 1893. He introduced a resolution in the assembly (resolution No. 30A), in which it was explained that the reports made of gross earnings by the two principal railroads doing business in Wisconsin were manifestly incorrect and that the state was thus being defrauded of large sums annually in license fees.

His belief was based on the alleged fact that the reports of earnings to the officers of this state did not agree with certain reports made to other states.

A committee was appointed and an investigation made. Mr. Hall being chairman of the committee. Two reports were made to the legislature, one signed by E. A. Edmonds and the other by Mr. Hall. Mr. Edmonds reported that he and the third member of the committee, whose name is not given, called at the offices of the railroad companies under investigation and examined their books. The report covers five pages of the assembly journal and professes to give a complete explanation of the discrepancy discovered by Mr. Hall, which was caused by the fact that certain states to which reports were made were not taxing railroads on the basis of earnings and the reports were therefore merely formal, approximate statements. The majority report concludes with these words:

"From the examination made by your committee, and from all the information which they have received, they are satisfied that correct and honest reports have been made by the various railroad companies operating lines within this state, to the state, of the actual earnings of each of said roads."

Mr. Hall handed in a minority report. He did not claim to have made an examination of the books of the companies. He merely compiled a number of statistical tables, gathering his figures from different sources, in an attempt to prove what could only be proved from the books of the companies indicted by him on a charge of fraud. It is not surprising that the legislature did not take his report seriously; it is not surprising that Mr. Hall's so-called anti-railroad crusade was not materially advanced by this failure to "make good" when the opportunity was given him. When he came back in 1895, 1897, and 1899, still insisting that the roads were defrauding the state by false reports, or that the license fee exacted of them should be increased, there was a manifest disposition to treat his figures and elaborately prepared statistics with a skepticism that had its origin in the investigation of 1893.

But the failure to take seriously the statistics and computations of Mr. Hall did not mean that the people of the state, or any considerable number of them, were entirely satisfied with the method of collecting taxes from the transportation companies or the amount of such taxes paid into the state treasury. There always had been opposition to the license fee system of taxing railroads. As has been said, State Senators F. W. von Cotzhausen and J. V. Quarles, the former in 1873-'74 and the latter in 1881, had proposed a return to the ad valorem system of taxing that class of corporation. Both of these members of the legislature had urged strong reasons for the proposed change and Senator von Cotzhausen in particular had urged that notwithstanding the

famous decision of the Supreme court in 1862, when two of the members of the court wrote opinions that the license fee system was in violation of the uniformity clause of the constitution, but declined to disturb a former decision of the same court because a reversal would bring disaster upon the business interests of the state—the time had come to return to the constitutional rule of uniformity and an ad valorem assessment of railroad property.

But the license fee system had been adopted in the first place because it was simple and easy of application. The old method of permitting local assessing officers to put a valuation on railroad property in their districts had proved to be impossible of successful operation even when there were but a few miles of railroad in the state. It was hoped when the license fee plan was adopted that a solution of the problem had been reached, although the amount collected by the state was but 1 per cent on the gross earnings of the companies. This fee was increased, however, to 3 per cent in 1862, 4 per cent in 1874, and in 1876 the roads were classified, the smaller roads being taxed a smaller per cent, the amount being determined by their earnings per mile.

Other states had experimented with railroad taxation plans of almost every conceivable character, yet none of them had succeeded in finding a plan that was entirely satisfactory. Tax commissions had investigated the subject and reported; economists had published opinions at considerable length which contained no satisfactory conclusion; pamphlets were written and printed, newspaper discussion in nearly all of the states had attempted to throw light on the subject, and yet the question was not settled. In 1888 Prof. Richard T. Ely, then a member of the Johns Hopkins university faculty, now with the University of Wisconsin, published the results of an investigation made by himself of this subject in which he expressed the opinion that the Wisconsin plan was the best that had so far been devised to dispose of the question of railroad taxation. He gave as his reasons for expressing this belief that the plan was simple, inexpensive in operation, and that the amount raised by this method was so important an item in the income of the state that it had not been found necessary to levy a state tax for general purposes for a number of years.

No confidence is violated when it is said that the railroad companies themselves were not entirely free from concern on this subject. It was the business of the officers of those companies to look after the interests of their stockholders and the frequent expressions of opinion on the part of public men and writters that the transportation companies were not paying their just proportion of the tax burdens, coupled with the repeated attempts to raise the license fee, led those officers to believe that, after all, the license fee might not be the best method of taxing their proper-

ty, notwithstanding its simplicity and the ease with which they could comply with it. No one could tell where the legislature would stop once it broke the ice and began to raise the percentage paid by the railroads on their gross earnings in lieu of taxes.

This was the situation when the first tax commission reported to the legislature of 1899 that their investigations had led them "to the conclusion that all corporations which are taxed on the basis of earnings or on a mileage basis pay relatively less taxes than other persons and less than they would pay on the basis of value."

CHAPTER IX.

GOV. SCOFIELD'S WARNING.

Gov. Scofield, under whose administration the work of framing new laws began, naturally took a lively interest in the details of that work. As has been shown from the records, he was intensely interested in the enactment of statutes providing for the taxation of car companies and freight line companies. His communications to the press on the subject of public revenues and expenditures created an interest that had not been felt before on the part of taxpayers. His frequently published interviews kept that interest alive. His address at the Janesville farmers' institute in 1898, reported in full in The Sentinel of March 10, in which reference is made to Gen. Benjamin Harrison's address delivered in Chicago on Washington's birthday the preceding month, contributed to spread abroad a knowledge of the facts with respect to the state's financial condition.

But Gov. Scofield saw a danger in this movement that no one but him at that time appeared to apprehend. In his Janesville address he spoke at length on the "inequalities" in taxation that resulted from our loose and illogical system of assessments. He explained how large amounts of intangible personal property escaped taxation altogether, and how the burden of defraying the expenses of government, local and state had in the past fallen upon property that easily could be reached. That this was an injustice to certain classes of taxpayers he did not believe any reasonable man would attempt to deny; that the work should be carried forward with vigor he believed was necessary. To this end he had favored the creating of a tax commission, and he hoped the next legislature would so act that the work of that body, or a similiar one, could be still further advanced.

In 1900, however, after the permanent tax commission had been created and provision had been made for paying its expenses, Gov. Scofield, who had kept his eyes keenly upon the movement, detected what he believed to be a danger. This belief is best expressed in his own words, taken from a Sentinel report of an address delivered by the governor at Delevan before a farmers' institute on March 14, 1900. Here is what he said.

"Upon this subject of taxation I desire to say a word at this time. It is one that has deeply interested me ever since I became a public official, and one toward which no intelligent man may be indifferent I see in the general agitation upon this subject this danger: That the tendency of legislation and of public sentiment seems to be to increase the public revenues. I desire to say to you now that *when there is collected from the public one dollar more than is necessary to carry on the legitimate functions of government, there is danger of extravagance, and, ultimately, worse than extravagance.* Fortunately we have not had this

condition to meet. I speak of it because there is shown a disposition in various ways to largely increase the income of the state.

"In a state as prosperous as ours taxes are not really burdensome when we compare our conditions with those of many other states. The ill feeling concerning taxes grows out of the belief that there is a marked inequality in distributing the burdens. There is a general impression that certain properties are not paying their just share of taxation. The legislature recognized this sentiment when it created a tax commission to look into the matter and present to it the facts bearing on the situation. That commission is now at work and when it presents its report and recommendations, I am satisfied that it will be made clear whether any property or properties are being overburdened, and whether others are shirking their proper duties and responsibilities. *If the latter proves to be the case and laws be enacted to remedy the evil, it should not result merely in additional demand being made upon the properties that have failed to pay their share; but an equilibrium should be established by reducing proportionately the amount now paid by those that are overburdened.*"

This is the only instance found where public expression was given to the possibility of unnecessarily increasing the revenues of the state. There had always been a tacit understanding that should increased revenues result from the assessment of property that previously had escaped taxation and from increased taxes to be collected from corporations, the classes of property that had been paying more than their just share would be benefited thereby. In other words, an increase in one place would be offset by a corresponding reduction in another. That is what taxation reform was supposed to mean, if it meant anything.

It was understood, of course, that the necessary expenses of the state were increasing from year to year. The charitable and penal institutions were calling for additional funds each year. Recently the home for feeble minded had been built at Chippewa Falls and the reformatory prison at Green Bay was then under construction. The state university was enlarging the scope of its operations and new buildings and grounds were to be acquired. All these expenses must be provided for and it was reasonable to suppose the state would be called upon to increase its revenues in order to meet the demands upon the treasury.

In 1889 the total disbursements of the state amounted to $2,574,,227.76; in 1899 they had grown to $3,884,339.46, an increase of $1,310,111.70. During the same years the license fees collected from all companies that paid a percentage of their gross earnings in lieu of taxes increased from $1,060,560.05 to $1,711,387.60, a gain of $650,827.55. But the addition to the license fees collected was only about one-half of the increase in the state's disbursements.

As it was only to these companies that the state could look for additional revenue except by direct taxation, and as it was for an increase in the license fees collected from corporations that the men at the head of the taxation reform movement were contending—at least they demanded an investigation as to the suf-

ficiency of the contributions from these corporations to the state's income—there was, in the governor's opinion, a probability that the fees collected from this source might outrun the legitimate expenses of the government. In an elaborate argument made in the assembly when the proposed increase in the railroad license fees was under consideration, Mr. Hall had given his estimate of a fair valuation and tax on those corporations. He had shown how, in his opinion, if the Chicago, Milwaukee and St. Paul and Chicago and North-Western railroads alone paid their fair share of the expenses of the state in 1898, they would have paid $617,-477.57 more than they actually did pay. As the annual increase in expenses during the ten preceding years had averaged but $113,-435.47, and as steps already had been taken to increase the taxes of all classes of public service corporations with the exception of railroads, it did not require that a man be endowed with the gift of prophecy to clearly see that the average increase in the revenues would outrun the average increase in the expenses if the affairs of the state were to be administered in the future as in the past.

As a matter of fact, the increase in corporation taxes has been so material that there is now collected from that source alone more than the entire disbursements of the state amounted to in 1898. In the latter year, according to statements printed in the report of the tax commission for 1907, the total disbursements for all purposes, inclusive of the trust fund incomes and funds raised by the tax for the educational institutions, amounted to $3,708,582.50, while the corporation taxes in 1908 amounted to $3,992,530.07, as follows:

License fees and taxes:

Railroad companies	$3,265,676.73
Street railway and electric light companies	22,207.31
Express companies	9,344.39
Sleeping car companies	5,343.28
Freight line and equipment companies	3,315.54
Telegraph companies	45,207.45
Telephone companies	36,628.89
Fire insurance companies	174,225.52
Life insurance companies	392,843.14
Accident, surety, etc., companies	27,396.20
Boom and improvement companies	252.85
Plank road companies	173.39
Loan and trust companies	9,915.38
Total	$3,992,530.07

It was in view of this probable increase now actual, that Gov. Scofield in 1900, warned the people of the state that provision should be made to lighten the burden of taxation on all overtaxed property whenever it was found that the tax on another class of property justly could be advanced.

In order to provide a way to handle the appropriations of public money intelligently Gov. Scofield, in 1899, proposed that the legislature provide for the regular filing, at the opening of each legislative session, of a budget explaining the needs of the several departments of the state government for the coming biennial term. He prepared and presented such a budget and it proved of material value to the members of the legislature, particularly the committee on claims. No budget has since been presented to a legislature. That was one of the practical reforms that was ignored during the violent outbreak of theoretical reform that followed. It was too practical and businesslike in character to appeal to Gov. Scofield's successor.

It was to further perfect the business system of the state that Gov. Scofield, at the same term of the legislature, in the same message, asked for authority to provide for the state a central system of accounting to the end that the financial condition of the state might be at all times clear and understandable, and that the funds of the state might be fully safeguarded. The legislature granted the request; experts were employed who worked months upon the books and finally perfected a central system of bookkeeping and proper checks by which the state's money, a large part of which is collected from many sources and passed through the hands of hundreds of men. could be traced.

This system of accounting was examined by a committee of the legislature and approved. A law was enacted ordering it put into effect by the governor. Unfortunately the executive was given some little discretion in the matter and Gov. La Follette decided that it was "not necessary" to put the entire system in force. This was another reform that failed at the beginning of a reform period.

CHAPTER X.

THE TAX COMMISSION'S REPORT IN 1901.

The subject of taxation came before the legislative session of 1901 in the form of a report from the tax commission, supplemented by a section of Gov. La Follette's message. For weeks there had been in circulation a rumor, based on little tangible evidence it is true, that the new executive "had it in for" the tax commission and that his message would prove to be a "bomb" for that body.

The tax commission, originally composed of Gen. Michael Griffin of Eau Claire, Judge Norman S. Gilson of Fond du Lac, and George Curtis, Jr., of Merrill, had been changed by the death of Gen. Griffin before the end of the first year of its work and just as the commissioners were getting their material in shape for study. Judge Gilson succeeded Gen. Griffin as the head of the commission and the vacancy was filled by Gov. Scofield's appointment of William A. Anderson to a place on the commission. Mr. Anderson's term expired during the winter of 1901 and he was supplanted by Nils P. Haugen.

But one of these gentlemen had served on the original tax commission, George Curtis, Jr. Gen. Griffin and Judge Gilson were men of eminence in their profession and had served the state ably in public office, the former as a member of the state legislature and representative in congress, the latter on the Circuit bench. Mr. Anderson had been engaged in newspaper work until appointed private secretary to Gov. Scofield in 1897. Mr. Curtis was a lawyer who had enjoyed exceptional opportunities of becoming acquainted with the tax laws by residing and practicing law in a territory that was fruitful of tax litigation.

The first year of the tax commission's experience was spent almost entirely in study. The questions confronting them were many and the problem as a whole was a big and complicated one. In so far as it was able, the first tax commission had made an excellent start and furnished considerable valuable data, but the new commission found it necessary to go deeper and discover, if possible, what other states had accomplished results in the way of taxation reform and how far the experiences in other states would be of value to Wisconsin.

The first year's preliminary work had only been completed and the work of classifying the information secured and digesting the facts begun when it became necessary to prepare a report for the opening of the coming session of the legislature, as required by the law creating the commission. It was explained in the letter of transmittal that the report was incomplete. The commissioners said:

"We regret that this part of the work may appear somewhat fragmentary, unaccompanied by the data upon which the discussions and conclusions are based, but this will be remedied by the publication later of the complete report comprising the detail of all the work done since the organization of the commission."

The report contained an account of hearings held before the commission in which the question of taxing corporations was gone into at considerable length. An effort had been made to secure a reasonably accurate valuation of all the taxable property of the state, personal and real, as well as to put a value on the property of the railroads and other public service corporations. Notwithstanding the apology of the commission for the incompleteness of its published report, the document was a valuable one and was of great use to the legislature. It would have been of greater service had it not been for political developments during the winter.

In conclusion the tax commission made certain recommendations. It was not prepared to suggest that the license fee system of taxing railroads be abandoned but it had gone deep enough into the subject to feel justified in confirming the statement made by the first commission to the effect that the railroad corporations were not bearing their full share of the public burdens. In this connection they recommended:

"That the license fee system of collecting taxes from certain corporations be maintained, at least until it be given a test under conditions that will make the returns received from it more nearly equal to what would be collected from the same properties on an *ad valorem* basis.

"That the annual license fee to be paid by the railroads in lieu of all other taxes shall be a percentage of the annual gross earnings graded from a minimum of 3 per cent to a maximum of 5½ per cent—the graduation and classification to be as follows:

"Three per cent of the gross earnings of all railroads whose gross earnings do not exceed $2,000 per mile; the rate thereafter to be increased from the minimum of 3 per cent by adding thereto .1 per cent for each $100 of gross earnings per mile until the gross earnings per mile shall equal $4,500 and the maximum rate of 5½ per cent is reached; and 5½ per cent of the gross earnings of all the railroads whose gross earnings per mile are $4,500 and over. The railroads whose gross earnings are equal to $3,000 per mile will pay 4 per cent, $4,000 per mile, 5 per cent, $4,500 per mile or over, 5½ per cent.

"The railroads in 1900 on the earnings of 1899 paid the sum of $1,546,720.68, on gross earnings of $39,487,403.67. The above classification on the per cent of the gross earnings if applied to the gross earnings in 1899 will give a revenue approximately $2,150,000."

The commission also made recommendations concerning other public service corporations and it proposed that the evil of undervaluation be abolished by requiring that all property be assessed at its actual market value. A number of tables were printed in the report illustrating how widely the assessed valuation of property varied from the actual value, as well as showing the total estimated value of real and personal property and the estimated value of all the railroads doing business in this state.

CHAPTER XI.

GOV. LA FOLLETTE ENTERS.

At this point Gov. Robert M. La Follette enters upon the stage and takes a position of advantage in the center, with the spot light shining upon him. As had been intimated before, up to this time he had made no record as a taxation reformer. There is not one line in any of his published addresses that would quicken the spirit or enlighten the mind of any student of the subject. So far as taxation was concerned, there was neither inspiration nor information to be found in the La Follette literature.

The governor's message was a long one. Possibly that fact might be left to be understood, as all of Gov. La Follette's messages and public documents are, or were, long. It was—also like all of his messages and public documents—carefully prepared and full of interest. His bitterest enemy will never accuse him of being dull. A large part of the message was devoted to the subject of taxation and fully one-half of that large part was devoted to suggestions of changes in the law creating the tax commission.

In the first place, the governor gave his approval to the general plan of preparing for a revision of the system by a thorough investigation of the subject by a commission. He regretted the death of Gen. Griffin as an event that had tended to delay the work of the commission, and he also regretted that the commission would not be able to propose a "complete plan of revision of the tax laws." But he was confident the members of that body would be able to render important services to the legislature in their efforts to enact such laws as were immediately necessary in order to correct evils in some directions. He did not counsel haste. It was important that time be taken to go into the subject thoroughly. He was of the opinion that it might require another biennial period in order to complete in a satisfactory manner recommendations for a revision of the tax laws.

It was Gov. La Follette's desire, however, that no time be lost in shifting the burden of unjust taxation from the shoulders of those who had borne it too long by placing that burden where it rightfully belonged—upon those who previously had escaped taxation in whole or in part. He said:

"But, though it may require another biennial period to perfect and complete this work of the commission, the fact should, under no circumstances, be made the excuse or justification for delaying such corrections of manifest inequalities as it is possible for the present legislature to effect. Indeed, the great task of the commission in constructing a complete system may be aided by remedying every defect possible in the existing law, either by amendment or independent act at this session, thus advancing along the line of revision and testing results wherever possible. In the meantime, the excess of burden which has so long rested upon certain classes of our citizens would be transferred to those who

have carried less than a proportionate share in the past. Every act of government should be fair and just, and no portion of the system which allows certain classes of property to escape taxation, wholly or in part, should be permitted to stand upon the statutes."

Later in the message it became apparent that the governor was aiming at owners of personal property, mortgages, stocks, bonds, and moneys, when he referred to classes of property, that, wholly or in part, escaped taxation, for he says:

"That the law with respect to the assessment of all property can be so amended, supervised and enforced as to secure uniformity of assessment and enormously increase the tax upon property which now escapes wholly or in part, there is not the slightest reason to doubt. With neighboring states adding $200,000,000 or $300,000,000 to the assessed valuation of personal property in a short twelve months, we shall be derelict in our duty indeed, if we fail to strengthen the law wherever it is weak, and provide for its vigorous enforcement."

One more quotation is necessary in order that Gov. La Follette's position on this question may be understood. This was in effect his first definite statement of principles so far as relates to the taxation question. He was, as required by the constitution, laying before the legislature facts in his possession relating to the matter under consideration and giving formal and official utterances to his opinions, deliberately formed and clearly expressed.

As a basis upon which to rely in forming his opinions, Mr. La Follette had requested the commissioner of labor and industrial statistics to prepare tables showing the total value of all property in the state and the estimate of the percentage of property in each class that escaped assessment and taxation. It may be said here that the tax commission had prepared similar tables and that they did not agree with those found in the governor's message, but the difference was not so radical as to create controversy or justify extended arguments. The main point on which both authorities agreed was that the percentage of real property assessed was high, that railroad property came next in the scale, and personal property cut a sorry figure in the percentage column. With respect to the taxation of corporations, after commenting briefly on the figures, Gov. La Follette said:

"One of the questions you will have to determine in dealing with this subject is whether railway companies shall be taxed directly by assessment upon the value of their property, or whether they shall continue to pay under the license system a certain percentage upon their gross earnings. The strong objection to a license fee upon gross earnings is that it allows the corporation to make its own report of the amount of its gross earnings, or, in other words, to assess itself. *It is but just to note in this connection that, as appears by the above tables, the railway companies have been fairer than the average of individuals, who, as to the great mass of personal property, assess themselves; the percentage of assessed to market value of the railways being 20 5-100 as against 12 9-100 for all other personal property in 1899.* In no case, however, should the assessment be left to the taxpayer, whether corporation or individual, without some check or safeguard for the state. If the railway

companies are to be taxed directly by assessment upon the value of their property, then I have no hesitation in saying that the assessment should be made by a state board of the highest possible character and ability. If the present system of a license fee, fixed at a certain rate per cent upon the gross earnings, is to be continued, then I recommend that there be reposed in some representative of the state, either the tax commission or board of assessment, authority to increase the amount of gross earnings reported by any railway company to such sum as will, in the judgment of the commission or board of assessment, render the amount just and equitable as representing the actual gross earnings of the company reporting the same; that such be taken as prima facie evidence of the actual gross earnings of such railroad company; but that any railway company considering itself aggrieved by the sum so fixed as gross earnings may appear before such commission or board of assessment and be fully heard and produce witnesses and evidence in their behalf in respect thereto. The final determination of the commission or board should in some form be subject to the supervision of the courts."

This is a fair outline of the opinions and recommendations of Gov. La Follette in his first message to the legislature, so far as tax legislation is concerned. There were some suggestions as to changes in the law creating the tax commission, some of which were wise and some foolish, like the twelve virgins. For instance, he proposed to give the commission power to supervise assessments and enforce the assessment laws; to limit the amount of expenditures that could be incurred by the commission; to require the commission to report directly to the executive instead of to the legislature. These were all wise suggestions and they were heeded by the legislature. On the other hand, he proposed to take from the commission the power and opportunity to make investigations requiring statistical work and to transfer all such work to the bureau of statistics, another department of the state government. He also expressed the belief that the commission could complete its investigations in two years and that it should be prepared at the end of the next biennial period to report a complete system of tax laws that would work satisfactorily. Comments on these suggestions were superfluous.

CHAPTER XII.

Attempts at Legislation.

As has been explained in a former chapter on primary elections, there was a profound peace in Wisconsin political circles at the time the legislature convened in 1901. There also was every reason to believe substantial progress would be made in taxation legislation along lines suggested by the tax commission. That body had recommended "that the license fee system of collecting taxes from certain corporations be maintained, at least until it be given a test under conditions that will make the returns received from it more equal to what would be collected from the same properties on an ad valorem basis," and, as has been shown, it presented a plan of license fee taxation that would increase the amount collected from all classes of railroads.

Gov. La Follette had shown by his tables that the railroad companies were not paying taxes at the same rate as real property, but he laid great stress upon the fact that it was personal property that was escaping its just share of taxation.

The result of conferences between the tax commission and leaders in the legislature was that two bills were prepared by the commission, one increasing the rate of taxation under the license fee system as recommended by the commission in its report; the other providing for an ad valorem assessment of all railroad property for the purposes of taxation. These bills were introduced in both houses by the respective committees on assessment and collection of taxes, made up of the following members:

Senators Whitehead (chairman), Riordan, Wolff, Green, and Mills.

Assemblymen Hall, Stevens, Frost, Zinn, Brunson, Lane, and McCabe.

These bills were introduced in the two houses on the same day, Jan. 30, and were numbered 94 and 95 on the senate files, and 164 and 165 on the assembly files. They were referred to the committee on assessment and collection of taxes in each house.

There were also introduced and referred to the committee on assessment and collection of taxes, the bills being introduced by that committee, the following senate bills:

No. 215, a bill for the taxation of sleeping car companies and to repeal chapter 112 of the laws of 1899.

No. 216, a bill for the taxation of the property of express companies in the state and to repeal chapter 111 of the laws of 1899.

No. 217, a bill to provide for the taxation of equipment companies and to repeal chapter 114 of the laws of 1899.

No. 218, a bill to provide for the taxation of the property of freight line companies and to repeal chapter 113 of the laws of 1899.

No. 219, a bill providing for the taxation of the property of tele-

graph companies and to repeal sections 1216, 1217, 1218, and subdivision 15 of section 1038 of the statutes of 1898.

No. 234, a bill relating to license fees for telephone companies and to repeal section 1222 of the statutes of 1898.

No. 235, a bill providing for license fees to be paid by street railway companies and to repeal sections 1222, 1222d, 1222e and 1222f of the statutes of 1898 and chapter 354 of the laws of 1899.

All of these bills, it should be remembered, were introduced in the senate by the committee on assessment and collection of taxes and that committee thereby became sponsors for the measures. Five of the bills were drawn to comply with the recommendations of the tax commission and the others were in harmony with the general plan proposed by that body. The bills were, in fact, drawn by the tax commissioners themselves in consultation with the members of the committee, Senators Whitehead, Riordan, Wolf, Green, and Mills.

In addition to the two railway taxation bills there also were introduced in the assembly by the committee, duplicates of four of the senate bills, those providing for the taxation of telegraph, freight line, equipment, and street railway companies.

Another important measure, introduced by Assemblyman Frost of Portage county, was No. 284A, "A bill to amend chapter 48 of the Wisconsin statutes of 1898, relating to the taxation of mortgaged real estate." The controversy that grew out of the governor's veto of this bill later was a spirited one, as the measure was popular in both houses. The principle involved in the measure was undoubtedly correct, a fact that since has been demonstrated, but Gov. La Follette objected to both the principle and the form. One defect pointed out in the veto message was a serious one, and it is doubtful if the courts would have upheld the law had the governor spared it when it came before him. But this is not the place to consider the merits of the controversy over the Frost mortgage taxation bill, as it came to be called.

Naturally, the companies that would be affected by the passage of these bills gathered in Madison to oppose them. There never was a time or a place when taxpayers did not object to any plan that had for its object an increase in their taxes. There have been isolated cases of individuals voluntarily increasing their assessment, but the rule is that taxpayers prefer to see "the other fellows'" taxes raised.

When hearings were held before the joint committee on assessment and collection of taxes the interested corporations appeared by attorney or representatives of some kind and entered their objections. The most conspicuous of these representatives, as a matter of course, were those who were there to protect the interests of the railroad companies. Not only the regular legislative representatives of the roads appeared before the committee, but the attorneys from the legal department of each road considered the sub-

ject of enough importance to call for their personal attendance for the purpose of making arguments.

The most strenuous opposition on the part of the railroads was brought out to defeat the bill providing for an increase in the percentage rate then being paid, which would have raised the rate on the gross income of the first class roads from 4 to 5.5 per cent. It should be remembered that 1901 was a boom year, following on the heels of three previous boom years and likely to be followed by others of a similar character. The transportation lines were doing a large business, the capacity of their equipment being taxed to care for the products of the farms, mines and factories of the country. There had been an increase in the license fees paid to the state in 1899 over those of 1898 of $112,763.11; in 1900 over 1899, $187,021.50; in 1901 over 1900, $53,238.15.

There was reason to believe this increase would continue from year to year because of the development of the country's resources and the additional tonnage the transportation lines would be called upon to handle. It was even believed by the officers of the companies that, at a 4 per cent rate on their gross earnings, they would soon be paying more taxes than any other class of property. This being their understanding of the situation it is not surprising that they made a strenuous fight against the proposition to raise the rate to 5.5 per cent, an increase of 37.5 per cent over the rate previously paid.

Furthermore, the railroad representatives argued that, by the showing made by the tax commission, they were then paying a much higher rate of taxes than the owners of personal property, which class of property was escaping taxation annually to the value of hundreds of millions of dollars. As confirmation of their position on this point the railroad representatives quoted from Gov. La Follette's message, printing in their briefs the table found in that important state paper and copying in large type the governor's statement: "It is but just to note, in this connection, that, as appears by the above tables, the railway companies have been fairer than the average individuals, who, as to the great mass of personal property, assess themselves; the percentage of assessed to market value of the railways being 20 5-100 as against 12 9-100 for all other personal property in 1899."

The hearings before the committees were numerous and the controversy was warmly fought out, the contending parties being the tax commission on the one side and the corporations on the other. That the members of the two committees were inclined to favor the bills goes without saying. Had they not been in favor of legislation of this character they would not have been instrumental in preparing the bills, or having them prepared, and introducing them in the two houses of the legislature.

During all this time Gov. R. M. La Follette held his peace with respect to the two pending railway taxation bills. No record was

made of his conferences with his friends and lieutenants and it is impossible, therefore, to furnish documentary evidence of his position on the subject during the weeks of contest before the committees. It was publicly known that the railway representatives were using the governor's message to the discredit of the bills, but no protest ever came from the executive chamber against such practices; no apology for or explanation of the quoted passages was ever vouchsafed the committee or the public; no aid or counsel was ever given to the members of the committee or the tax commission in their efforts to solve this perplexing problem, although a personal invitation to take part in the consideration of the measures was conveyed to the governor by the chairman of the senate committee, Senator Whitehead. So far as taxation legislation was concerned, a deep and impenetrable silence brooded over the executive chamber.

Meanwhile the tension caused by the campaign for and against the primary election bill was becoming painful. The harmony that prevailed at the opening of the session was strained almost to a breaking point, the overshadowing importance of that administrative measure casting all other legislative problems into the shade. Where there had been, in the beginning, great interest manifested in the work of the committee on assessment and collection of taxes, there now developed a subject of public interest of, apparently, paramount importance—the primary election bill. This bill was made the test of allegiance to the administration. The signals, passwords, grips, hailing and distress signs of the new secret political society all had reference to the primary election bill and no other. The forces of the administration were lined up and drilled with the sole view of securing the passage of that bill.

This may explain the failure of Gov. La Follette to come to the support of the members of the committees and the tax commission in their fight for increased corporation taxation. In the absence of a better explanation it is fair to assume that the executive was staking all on the primary election bill and permitting other important measures to take care of themselves; that he was willing to have his own message used to defeat taxation bills provided he could secure the passage of his pet measure.

At all events, the assembly committee came in on April 17 with a dividend report on bill No. 165A, the one providing for an increase in the rate of taxation on railroad gross earnings. Messrs. Zinn, Brunson, Lane and McCabe recommended the bill for indefinite postponement, while Messrs. Hall, Stevens and Frost dissented from the majority report. This was the measure most strenuously fought by the railway companies. The majority of the committee did not see fit to make an extended report, but the minority explained in detail their reasons for supporting the measure and asking that it be passed. The reasons given were identical with those found in the report of the tax commission.

On April 23 the bill came up again and was indefinitely post-

poned by the assembly on recommendation by the committee majority. The assembly was understood to be controlled by the governor. Whenever a test vote was taken on a measure in which he was interested, his wishes uniformly ruled in that house. His newspapers and literary bureau asserted later that the senate was "organized against the governor," but no one ever disputed the truth of the statement that the assembly was organized in his interests. There are strong grounds for the belief that, had Gov. La Follette exerted himself to secure the passage of taxation bills, practically all of the measures proposed by the commission would have been enacted into law. All the evidence goes to prove that he occupied neutral grounds on this subject and permitted his message to be used to the disadvantage of the taxation bills.

The vote on the indefinite postponement of bill No. 165A is not recorded in the assembly journal, but there is a record of the vote by which Mr. Hall's motion to adopt the amendments proposed by the committee on assessment and collection of taxes was rejected. Here is the record as it appears in the journal of April 23, 1901:

"Mr. Hall offered as amendment to No. 165A, the amendments reported by the committee on assessment and collection of taxes.

"The yeas and nays being demanded, it was decided in the negative.

"The vote was as follows: Yeas, 39; nays, 50; absent or not voting, 9; paired 2.

"Yeas—Messrs. Anderson, Andrew, Babb, Barlow, Benson, Brunson, Cady, Cleophas, Coapman, Cook, Dahl, Dodge, Ela, Erickson, Fenelon, Frost, Gilman, Haggerty, Hall, Hanson, Henry, Holland, Johnson (F.), Johnson (H.), Keene, Kern, Lenroot, Meloney, Moldenhauer, Pomrening, Rogers, Schellenberg, Smally, Spratt, Stevens, Sturdevant, Swenholt, Thomas and Mr. Speaker—39.

"Nays—Messrs. Barker, Burdeau, Clark, Collins, Dow, Duerrwachter, Eline, Esau, Evans (David, Jr.), Evans (Evan W.), Fessenfeld, Flaherty, Gagnon, Galaway, Gawin, Hodgins, Jensen, Johnson, Jones, Karel, Katz, Lane, McCabe, McCormick, McGill, McMillan, Manuel, Miller (Edwin A.), Miller (Herman), Norton, Orton, Owen, Park, Price, Rasmussen, Roe, Root, Rossman, Sarau, Silkworth, Smith, Soltwedel, Steiger, Valentine, Whitson, Williams (E. A.), Williams (J. C.), Willott, Young and Zinn—50.

"Absent or not voting—Messrs. Ainsworth, Eager, Krumrey, McComb, Middleton, Miner, Rankl, Slade and Theissenhusen—9.

"Paired—Messrs. Overbeck and Hartung—2.

"Mr. Overbeck, who would have voted yea, was paired with Mr. Hartung, who would have voted nay.

"And the amendments were rejected.

"No. 165A was indefinitely postponed."

A similar fate met the other railroad bill, No. 164A, on May 2 by a vote of 45 in favor of engrossment and third reading and 51 against the motion. Thus the two bills prepared by the tax commission, at the request of leading members of both houses, among whom were Mr. Hall and Senators Whitehead, Riordan, Roehr and others, were killed without the governor raising a finger to aid them and after his own message had been used to defeat them.

CHAPTER XIII.

THE GOVERNOR BECOMES ACTIVE.

The primary election bill was killed in the senate April 11. On April 24 the bill providing for an increase in the license fees paid by the railroads was killed in the assembly, as has been stated. The ad valorem railway taxation bill had been made a special order for 10 o'clock on May 2, in the assembly.

The defeat of his favorite primary measure manifestly roused Gov. La Follette to activity. On May 2 he sent to the assembly his famous "dog tax veto," a document that proved to be the opening gun of a verbal bombardment of the legislature that lasted many months. The so-called dog tax bill was not a taxation measure, as a matter of fact, for it was designed to serve as a police measure, and in form and effect was a dog license bill. But the governor used this modest, shrinking little bill as a text for his taxation sermon and his preachment was as strenuous, not to say sensational, as it well could be. The legislature was given to understand that the poor farmer's dog could not be taxed so long as the great railroad corporations were escaping their just share of the burdens of government. The language of that veto message fairly sizzled, it was so hot.

This veto message was the first public utterance on the part of the governor on the subject of taxation since the opening of the legislative session, and it gave evidence of a complete change of front on his part. While his biennial message did not openly and in terms discredit the tax commission as a body, the use of the figures furnished him by the commissioner of labor and industrial statistics was of a character to signify doubt on his part of the reliability of the statistics printed in the tax commission's report. His subsequent silence, the known activity of some of his supporters in opposition to the bills prepared by the commission, and the use made of the material taken from his message in the arguments before the committees, all contributed to the defeat of the taxation bills.

When he wrote his "dog tax veto" Gov. La Follette was "as mad as a hatter," for reasons already outlined. The tax commission suddenly became, in the eyes of the governor, an inspired authority, and he demanded the passage of the measure providing for the taxation of railroads on the ad valorem plan—the bill that had been made a special order for 10 o'clock on the day his message was transmitted to the assembly. In the Voters' Handbook, published by the La Follette faction in 1902 as a campaign document, this paragraph is found in reference to that veto message:

"This message was received and read to the assembly before the vote was taken on the second railway taxation bill, and ought to have reached the judgment and consciences of the members who were giving

so little heed to the promises which had been made to the people in the platform before the election."

The assembly met at 9 o'clock a. m., and the roll was called. The routine business of the morning session was then taken up; a resolution was introduced and other resolutions considered; three bills were introduced; the committee on state affairs, and the committee on cities then reported on bills; the committee on engrossed bills then reported. Then came a message from the governor giving a list of bills which had received his approval and been filed with the secretary of state. This message covers three pages of the journal. Next comes the "dog tax veto" covering four and one-half pages of the journal. Following the governor's message there was put the question of sustaining the veto, and the assembly, by a vote of 6 to 82, refused to pass the bill over his veto. Two messages from the senate were then considered, and, the time for the special order having arrived, the ad valorem railroad taxation bill was taken up for consideration, after which it was killed by a vote of 45 in favor of its passage to a third reading to 51 nays.

A great noise was made because the "dog tax veto" did not save the bill from destruction. By what course of reasoning did Gov. La Follette arrive at the belief that he could, after more than three months' silence, come into the assembly less than an hour before the time for action on a bill and save it? The hearings before the committee had been public; members of both houses, intensely interested in the subject under consideration, had followed the arguments of the men who appeared on both sides. They had given the measures as much time and consideration as was possible in a period of strenuous political warfare when factions were forming for a long drawn out battle. Was it reasonable to suppose they would change their opinions at the eleventh—or, rather the twelfth—hour at the behest of a man who had delayed three months in expressing an opinion, even if he had formed one?

The fact of the matter is that the taxation bills—all of them—were sacrificed to the factional fight that was begun during the legislative session of 1901, and, specifically, to the primary election bill. Had there been no opposition to the primary election bill there would have been no "dog tax veto;" no executive verbal lashing of the assembly for failure to keep promises made in the platform, no sudden apotheosis of the tax commission by a governor who had artfully discredited the same body three months before.

That the fate of the bills was decided before the sensational message was written is shown by the fact that on May 2, after the ad valorem taxation bill was killed in the assembly, Senator Whitehead, one of the fathers of the taxation measures, and also one of the strongest and most consistent supporters of all the commission bills, asked that the bills be withdrawn from the senate files. Two days later Mr. Hall, chairman of the assembly com-

mittee, took the same action in the assembly. There is as much reason to question the sincerity of Mr. Hall's support of these measures as there is to accuse Senator Whitehead of being false to his professions of friendship for them. Both Whitehead and Hall had worked for months to secure their passage. La Follette came in after they had been killed or finally doomed and demanded their passage. The support of Whitehead and Hall was based on sincere desire to perfect the taxation laws. The tardy support of La Follette was born of anger because of his failure to pass his favorite primary election bill. The record is so plain that it does not require extended comment in order to establish the truth of these statements.

CHAPTER XIV.

A Conflict of Authority.

Before criticising the members of either house for failure to pass one or the other of the railway taxation bills at that session, account should be taken of the peculiar situation at the time. The first tax commission had expressed the opinion that the license fee system based on the gross earnings of the roads, was not securing results other taxpayers had a right to expect; the permanent tax commission had recommended that the license fee system be retained and that the amount of the fee collected be increased. Gov. La Follette, while refraining from offering any recommendations upon this specific point, endeavored to show by statistics that the railroad corporations were paying a higher rate of taxes than owners of personal property.

To this conflict of authority may be attributed in a measure the inability of the legislature to arrive at a speedy and well defined conclusion upon the subject under consideration. It should also be remembered that the statistics furnished the legislature by the governor and the figures supplied by the tax commission did not agree. The members of the legislature were very much at sea. When the two committees on assessment and collection of taxes met in joint session this conflict became more and more apparent as time passed. It is a significant fact that Mr. Hall, chairman of the assembly committee, the old war horse in the battle for increased railway taxation, acted in concert with Senator Whitehead, chairman of the senate committee, in withdrawing the taxation bills from the files when it became apparent that they could not be passed.

But the controversy, the discussion before the committees and in the public press, had an educative value. While the legislature could not come to a definite conclusion on the subject at that session, the ground was prepared for future action. The obviously wise course was chosen and the tax commission, the body that was required to do the greater part of the work in solving the problem, was given enlarged powers and duties. They were given the tools to work with and instructed to build a plan that would be fair and just to all classes of taxpayers, one that would provide for an equality of tax burdens. To the end that they might be provided with authority to enforce the taxation laws then in effect, additional penalties and punishments for violations of assessment laws by assessing officers and property owners and for neglect of duty by assessing officers were provided by chapter 379, laws of 1901, and chapter 330 provided for the removal of assessing officers for violation of assessment laws or for neglect of official duty.

This is all the legislature could do at that session. It was all

the people had a right to expect of them in the circumstances. Whatever delay resulted from this action was necessary in order that future action might be based on an intelligent understanding of the facts relating to the obstacles to be overcome and the best method of overcoming them. The legislators were entitled at that time to the privilege of reporting progress and asking for time to complete their work.

There were three important measures however, that did not fail of enactment by the legislature of 1901, two of which originated in the senate and one in the assembly. These were senate bills Nos. 214 and 326, the former constituting the tax commission a state board of assessment and the latter defining and enlarging the duties of that body. The assembly bill, No. 388, created the office of county supervisor of assessments.

One of these bills, No. 236S, was recommended by Gov. La Follette in his message and prepared by the tax commission. The other two, also drawn by the commissioners were not mentioned in the message. Special recommendations made by the governor that the statistical work of the commission be taken from that body and committed to the bureau of labor and industrial statistics and that the life of the commission as a state board be reduced to four years were ignored. His suggestions that the expenses of the commission be limited to a specified sum was in part complied with by fixing $10,000 as the maximum amount the commission was allowed for clerk hire, traveling expenses, and other disbursements.

The main purpose of the legislature in enacting the laws of 1901 appears to have been to do away with the evil of undervaluation and provide for the assessment of all property at its actual cash value. To this end the hands of the tax commission were strengthened, a new county office was created, and all assessment and taxation officers were placed under the direct supervision of the commission, upon whom the responsibility for the reform was placed. This was believed to be the first important step toward establishing an equitable and workable taxation system and there do not appear to have been any radical differences of opinion between the members of the two houses upon the subject. The three bills in question were passed without opposition worthy of mention.

It should be remembered that this was a time of unusual political agitation and intense personal feeling growing out of the contest over the primary election bill which failed of enactment. It is impossible now, as it was impossible then, to determine precisely to what extent and in what manner this fight affected the proposed taxation legislation, but there are the best of reasons for believing that, had the republican party been united and reason-

ably harmonious in purpose, more progress would have been made during the 1901 session of the legislature.

Two of the taxation bills that failed of enactment are entitled to especial mention because of the publicity given them, if for no other cause. One was the Hartung dog tax bill, and the other the Frost mortgage taxation bill. The former was brought into the limelight by Gov. La Follette's veto message. It was in reality a police, and not a revenue measure. It was predicated on the theory that dogs need regulation even if they are not public utilities and that the proper way to regulate them was to enact a dog license law with a statewide application.

This bill came to the governor at a time when he was smarting over the defeat of the primary election bill, and it offered him an opportunity to read the legislature a lecture on their alleged neglect of duty in failing to pass one of the railway taxation bills that had been defeated in the assembly. As has been explained, the second railway bill, the one that provided for the taxation of railway property on an ad valorem basis, was pending in the assembly, and had been made a special order of business for the morning the dog tax veto was received. This bill was not of enough importance to entitle it to create discussion. It passed the assembly by a vote of 53 to 26 on the roll call, and in the senate the roll was not even called, the bill being concurred in without opposition.

The Frost mortgage taxation bill, however, was a more important measure. It had been prepared by Assemblyman Fred J. Frost after a careful study of the Massachusetts law of 1881. The purpose of this bill was to avoid double taxation which was inevitable where the mortgaged property was assessed at its full value and the mortgage assessed separately, as was the case under the existing laws. This measure passed both houses with little or no opposition, the assembly committee on assessment and collection of taxes and the senate judiciary committee having given it their approval. The vote in the assembly on roll call was 58 for, and 11 against. The roll was not called in the senate.

Gov. La Follette returned the Frost bill with a veto message in which he explained that he objected to the measure for two reasons. His first objection was that injustice would result from the provision by which the two parties to a mortgage were permitted to agree between themselves as to which one should pay the tax; the second objection was that the law would be unconstitutional as it would violate the rule of uniformity. The friends of the measure were unable to pass it over the gorvernor's veto and it died.

While the question of constitutionality, raised by the governor in this case, has never been passed upon by the court, there is good reason to believe his point was well taken, notwithstanding the

fact that the Massachusetts law had been in force for twenty years. On this particular point the governor said:

Another section of the bill declares that its provisions shall not apply to or affect mortgages executed prior to the time this act shall take effect, which time is fixed in the bill on Jan. 1, 1902. It follows if the agreement to pay the taxes is made by the mortgagor, that mortgages executed prior to Jan. 1, 1902, are to be taxed as personal property according to the existing rules of law, while those made subsequent to that date are wholly exempt from taxation, because the real estate is to be taxed at its true value both before and after that date, and after that date the mortgage executed is made a part of the real estate for assessment purposes. On the other hand, if a mortgage should be given after Jan. 1, 1902, and agreement to pay all taxes on the real estate is not made by the mortgagor, then the real estate is assessed at its true value, less the true value of the mortgage, but if the mortgage shall have been executed prior to that date, and none since, upon the same parcel of real estate, it is to be assessed at its true value without any reduction whatever, on account of the mortgage, which also is to be assessed at its true value.

"In my judgment, it is not permissible, under the constitutional provision quoted, either to tax mortgages executed prior to a certain date and to exempt those executed after that date, or to tax real estate upon which a mortgage has been executed prior to a certain date without any reduction on account of the mortgage debt and to deduct from the true value of similar property similarly situated the value of a mortgage executed subsequent to such date in making assessments for taxation purposes."

This reads like good law, and, in the absence of the court decision required to confirm or reject it, it is fair to assume that Gov. La Follette believed his constitutional objection was a sound one. But subsequent events demonstrated that the governor's chief objection to the proposed statute was not a constitutional one. His first and main objection to the Frost bill was that it permitted the mortgagor to enter into a contract to pay the taxes on the property, inclusive of the mortgaged interest. He objected to the two interests being consolidated for taxation purposes. It was the mortgagee he was after—the man who had money to loan—not the tax on the property. Granting the unconstitutionality of the Frost bill, the fact still remains that Gov. La Follette at that time and later fought for the principle of taxing the men who loaned money and not the property, or money invested in the property.

This question came up two years later and resulted in a mortgage taxation law.

CHAPTER XV.

The Campaign of 1902.

If ever the taxation question may be said to have been an issue that period was in 1902, but there is only a shadow of an excuse for asserting that it was an issue even then. Because there was so much talk and so many columns of printed matter all devoted to the subject it does not follow that there was a well defined political contest waged by two or more contending factions supporting specific policies with respect to the taxation problem. As a matter of fact, there was an abundance of discussion and controversy, but it was mainly devoted to elementary principles. The state of Wisconsin may be said to have been sitting in the primary class in economics during that memorable campaign and listening to some astounding statements of alleged principles of taxation.

For instance, it was solemnly argued by one or more prominent adminstration newspapers that the taxation of mortgages at their face value and the taxation of the mortgaged property at its full value without deduction on account of the mortgage was not double taxation. Also certain members of the legislature attempted to show that the mortgagee, being a capitalist whose money was invested in interest bearing securities, should be taxed at the uniform rate of taxation on all his evidences of debt, as that was a definite evidence of the amount of his investment, without respect to the fact that the property upon which the debt was secured must be taxed, as it is tangible and easily assessable.

There were also demands made that the capital stock of all corporations be taxed in the hands of the stockholders, even where the corporation was taxed on its property. It was argued also that, notwithstanding the experience of other states to the contrary, it would be possible to hunt out and assess millions of dollars of taxable intangible property that always had escaped the assessors.

Lastly, there was a dispute as to the method of taxing railway property. Two tax commissions had expressed the opinion that the transportation companies were not paying their full share of the taxes collected in this state. The question was: Should the plan of taxing these corporations be changed from the license fee system to the ad valorem method? If the license fee system were to be retained it was a foregone conclusion that, with the leadership of the tax commission to guide them, the legislature would inevitably increase the percentage on gross earnings. There were many who believed this would be the best plan, as the license fee system was simple, almost automatic in its operations, and the amount of the taxes collected from the transportation companies

could be increased at any time the demands of the state required by simply increasing the percentage, or amount of the fee.

There were no well defined lines drawn between political parties or factions with respect to these questions. The campaign literature circulated for the instruction of the voters does not disclose any definite propositions for a change of method in taxing any class of property. The adminstration newspapers and campaign circulars and books charged their opponents with responsibility for the defeat of the railway taxation bills in 1901, but it is impossible to discover which of the two bills—the one providing for an ad valorem assessment and the other for an increase in the license fee on gross earnings—was the one claimed to have been favored by Gov. La Follette and his followers. As the governor himself did not come to the support of either of these measures until they were defeated in fact or in effect, no man can tell which one of the bills would have best satisfied him.

That the demand for taxation reform was almost unanimous in this state can not truthfully be denied. That the distinguishing characteristic of the public discussion of the subject during that year was dense ignorance of the fundamental principles of economics is disclosed by the columns of the newspapers and the campaign literature circulated during the campaign. About all the definite information to be had was contained in the first report of the tax commission, and that report was confessedly incomplete, as the commission had not been given time to do more than dip into the subject and come out with a few facts and statistics that were merely suggestive of what a thorough investigation would disclose.

The statement that there was no issue on the subject of taxation in the campaign of 1902, is subject, however, to one qualification: As a rule the administration faction did demand more taxes, while the stalwart or conservative demand was for more information. It was conceded by all that large amounts of property were escaping taxation wholly or in part. The conservatives wanted to proceed intelligently and along scientific lines in correcting the inequalities and thus avoid greater evils than those from which they were fleeing. The administration faction was for taxing everybody right and left regardless of consequences, but, during the campaign at least, they did not offer any specific plan for putting their promises of increased revenues into operation. As a means of arousing interest in their campaign there was much talk of the excessive burden borne by the farmer whose property was easily found and assessed, while the capitalist was escaping taxation. The owner of urban realty, who was then and is now the heaviest taxpayer in the state, came in for little sympathy.

CHAPTER XVI.

Commission Reports Progress.

When the legislature of 1903 convened the situation had changed somewhat. The tax commission was prepared to answer many of the questions that had puzzled members of the legislature at previous sessions. It had studied the situation in this state and the experience of other states to some purpose and was prepared to offer advice, backed by definite facts and statistics in justification of the course of reasoning and conclusions upon which the advice was based. The commissioners had supplemented their first two years of study by another biennial period of investigation and research. They now came to the legislature with the results of nearly four years of hard work. They were men of exceptional abilities, trained minds, and an ambition to give the state good service in the particular field to which they had been appointed. The legislature of 1901, recognizing the necessities of the situation, had given them enlarged powers, thereby enabling them to test the old taxation system under the most favorable conditions.

The report of the Wisconsin tax commission made in 1903 justly has been reguarded as one of the most valuable contributions to taxation literature in print. It is a volume of 260 pages, and contains matter of general as well as local interest. On the subjects of "The Inheritance Tax," "Taxation of Credits," and "Taxation of Railways" in particular, the treatment was so exhaustive, the analyses so clear and convincing that they carried conviction to the minds of the legislators, or at least, to the minds of all members who permitted sound reason to control their official actions.

The tax commission believed the law taxing inheritances, enacted in 1899 but declared unconstitutional by the Supreme court, should be corrected to comply with the suggestions of the court and re-enacted. Nearly forty pages of the report are devoted to this subject, the commission explaining that the decision of the Supreme court did not in any sense reflect upon the right of the state to levy an inheritance tax, the defect in the law being merely technical and one that easily could be removed. The commissioners later presented a bill which was enacted into law and became chapter 44, laws of 1903. There was no opposition to this bill, No. 331S, as Gov. La Follette approved of it in his message. The Supreme court, in declaring the law of 1899 to be unconstitutional, had said:

"We have reached this conclusion reluctantly. We should far rather have sustained the law, but the conclusion has been forced upon us. We agree with the general principles which have been approved by an overwhelming weight of authority in the courts in this country in reference to inheritance and succession tax laws."

The bill was passed and became the law of the state. It was attacked in the courts but the Supreme court sustained it and it is now in force. There was no political issue concerning the inheritance tax law, at least.

The controversy over the taxation of credits however, came near to the point of becoming a political issue. The tax commissioners themselves failed to agree on a unanimous report relating to this subject. Commissioner Nils P. Haugen presenting a brief dissenting report, covering but two pages, in which he gave five reasons why he believed credits should not be exempted from taxation by law.

The chapter devoted to taxation of credits in the main report in which were incorporated the opinions of Commissioners Gilson and Curtis covers fifty-six pages of the report, and is devided into four parts, as follows: "Status of the law;" "Statistics and Comment;" "Fundamental Principles;" "Legislation in Other States." It is this particular chapter that called forth the most enthusiastic indorsement of the commission's work on the one hand and the sharpest criticism on the other. The failure in this and other states to uncover and assess all forms of credits was not the only reason urged by the commission and the friends of credit exemptions for an abandonment of the attempt. It was shown, or argued, at least, that credits were not property in any proper sense of the term. In most cases they merely represented property that was assessed and taxed in the hands of the owner. In this respect mortgages were not unique, for many other forms of credits were merely evidences of a debt owed by somebody. If that somebody was solvent the debt was a lien on his property; if he was insolvent, the debt was worthless and should not be taxed because it had no value. It is impossible here to go into the arguments used at length. Persons who are interested will find the report of the Wisconsin tax commission for the year 1903 worth reading.

On the other hand, the opponents of credit exemptions, under the leadership of Gov. La Follette, were determined that intangible property, including all forms of credits, should be taxed. There is an impression prevalent among a large number of citizens who have given the matter little serious thought, that, in some mysterious manner never explained, the burden of taxation rests mainly upon the poor people of the state while the wealthy owners of credits escape. If they are owners of credits they must be wealthy, and, conversely, if they are wealthy they must be owners of credits. Ergo, if credits are exempted from taxation the wealthy owner of credits will escape taxation. Probably one of the clearest explanations of this popular idea is the one found in Gov. La Follette's message to the legislature in 1903. He said:

"With the rapid accumulation of wealth, the increase in the amount and value of intangible property but strengthens year by year the reason

and justice of its taxation in some form. The vast accumulations of wealth may be invested in interest bearing securities, insuring large incomes to the holders who throw their share of the expense of maintaining streets and schools and public institutions, and all the burdens of municipal and state government upon the owners of factories and shops, and stores and farms and homes, violates every principle of equal rights and equal responsibilities guaranteed to American citizens."

That is the understanding of the situation upon which is founded the proposition to tax credits. On the other hand, the opponents of credit taxation explain that the "factories and shops and stores and farms and homes," together with a few other classes of property like the transportation lines, the mines, timber lands and unused agricultural lands, both of which are supposed to be adding an unearned increment of value yearly to their worth, are really the basis of all the credits of the country. A debt that is secured, if it be wealth "invested in interest bearing securities," is represented somewhere by tangible property, even if the evidence of debt be intangible. To tax the tangible property at its full value and then tax the intangible security that merely represents a right to demand payment from the owner of that property, is double taxation.

But this was not what Gov. La Follette and those who followed him proposed to do with real estate mortgages. They argued that the value of the mortgage should be deducted from the assessment of the mortgaged property, the mortgagee being required to pay the taxes on his interest in the property represented by the mortgage instrument. They would not agree to permit the two parties to the business transaction to enter into a contract by which the mortgagor should obligate himself to pay the taxes. They were determined to force the mortgagee to pay the taxes on his mortgage. It was the man they were after, not merely the tax on property. This was one of the vital defects—as viewed by the governor—in the Frost mortgage taxation bill of 1901. It was the point in controversy in the legislature of 1903 and one over which there was a threatened deadlock between the two houses, the assembly, where Gov. La Follette held a majority, and the senate, where the conservatives were in control.

The controversy finally resulted in the enactment of a law that, in effect, exempted the mortgage from taxation as recommended by the tax commission, by permitting the two interests to be taxed together. This was not the intention of the original authors of the bill, No. 662A, which was drawn with the distinct idea of holding the mortgagee strictly to account for his share of the tax by making it unlawful for the two parties to the mortgage to enter into an agreement whereby the mortgagor should pay the entire tax. The bill passed the assembly in this form, was amended by the senate, and finally went to a conference committee, where it was permanently amended. That law has remained practically unchanged until the present.

CHAPTER XVII.

AD VALOREM RAILWAY TAXATION IN 1903.

The most important work of the legislature of 1903, however, was the passage of the ad valorem railway taxation bill. As has been explained, the subject of railroad taxation had been continuously before the legislature in one form or another for ten years, or since A. R. Hall first proposed to investigate the records of the companies to assertain whether they were reporting their gross earnings honestly. The first tax commission had reported in 1899 that it was of opinion the railroads were not paying their just share of the taxes. The tax commission in 1901 had made a similar report, but recommended that the license fee system be retained until such time as more definite information on the subject could be secured.

In 1903, however, the commission reported strongly in favor of an ad valorem assessment of all railroad property for the purposes of taxation. It suggested that the license fee system be retained for a term of years; that an ad valorem assessment of railroad property be made each year and the tax computed on the assessed valuation at the rate paid by the general property of the state; that if the license fee collected amounted to more than the tax computed on the assessment of the property, the excess be returned to the company paying such excess; should the license fee be less than the amount of the tax computed on the ad valorem plan, the company should be required to pay the balance.

Gov. La Follette also recommended that the ad valorem system of taxing railway property be adopted. He scolded the legislature of 1903 in round terms for the failure of the legislatures of 1899 and 1901 to solve the taxation problem. He told them they had nothing to consider—all the considering had been attended to by what he believed to be the proper body. There was only one thing for the legislature to do, and that was to pass the bill prepared for them by the tax commission and let it go at that. One of the most interesting paragraphs in that extraordinarily interesting message is worth reproducing here because of its dogmatic, arbitrary tone. It is not likely there will be found in the state records before or since the La Follette period any instance where a legislature was told in such definite and unequivocal terms what it was expected to do with respect to certain legislation. The governor said:

"Effort may be further continued to obstruct the course of justice. These failing, as a last resort efforts will be made to compromise. There has been given into our hands a trust to discharge. Differences of opinion may arise in the performance of public duty upon questions of policy. This is not a question of policy. The railroad companies of this state owe the state more than $1,000,000 a year. For many years, because

of the postponement or defeat of legislation requiring them to pay their proportionate share of the taxes, the other taxpayers of Wisconsin have paid for them $1,000,000 annually. The case has been tried, the hearing has been full. Judgment has been given again and again. Pledges have been made by political parties, and repeated by candidates for office, over and over again. The question is not an open one. There is no opportunity for misunderstanding. There is no room for speculation. The truth is ascertained. The truth is known. It is lodged in the public mind to stay. The people want $1,000,000 a year, because it is the sum owing. They are not to be wheedled by any soft phrases about "conservatism." There is nothing to compromise. Equal and just taxation is a fundamental principle of republican government. The amount due as taxes from railroads and other public service corporations should be paid, and paid in full, and I am confident the legislation to secure that payment will be promptly enacted.

"*I recommend that the bill formulated by the tax commission in accordance with their report, pursuant to the law creating that body, and presented by them to the legislature, be passed promptly,* and that there may be no uncertainty I now say that a measure creating a state board of assessment to determine the value of railroad property, and applying to railroad companies and other public service corporations the same rate of taxation which other taxable property pays in this state, will be promptly approved by the executive, if given the opportunity."

Complaint had been made the previous year that Gov. La Follette had attempted to usurp the privileges and functions of the legislative branch of the state government, or at least to dictate to the legislature in an arbitrary and unlawful manner. That complaint was not without foundation in fact. That the governor did not take seriously the constitutional limitation placed upon his activities as a public servant is shown by his attempt to dictate what the action of the two houses should be with respect to the proposed railway taxation legislation.

The tax commission, it is true, had recommended that the ad valorem system be adopted. The members of that body had given the subject careful consideration. They had, so far as they were able without the assistance of expert engineers, made a complete valuation of all the railroads in the state and estimated the amount of taxes they would have been required to pay had they been assessed at the rates paid by owners of other classes of property taxed on an ad valorem assessment. Sixty-seven pages of the commission's report was devoted to the subject of railroad taxation. The commissioners had attempted to avoid error by working out the problem in different ways. They had made what they believed to be a fair valuation of the property by ascertaining the market value of the stocks and bonds of the several roads for terms of years, taking the average value of those securities for three, five and seven year periods respectively. They then took the net earnings of the roads and capitalized them at 6 per cent. In this way they had arrived at the conclusion that had the railroads been taxed on the ad valorem plan in 1902 they would have paid approximate-

ly $2,652,590.62, instead of $1,711,900.18, the amount they did pay.

But the tax commission was not in a position to ask the legislature to accept its conclusions as final, nor did it presume to do so. It is a principle of republican government that when any citizen's interests are being considered by the state he is entitled to a hearing. Every taxpayer has his day before the board of review if he is disposed to demand it. From the beginning it has been conceded that when the legislature is in session and important matters are pending before it, citizens whose interests are likely to be affected by the enactment of laws or the defeat of measures are entitled to appear before legislative committees and be heard. This was what the tax commission had supposed would be done. This was what the members of the legislature proposed to do. This was what all legislatures previously had done when undertaking important legislation.

Although Gov. La Follette informed the legislature that a bill had been, or would be, formulated by the tax commission which he expected would be passed without hesitation, the fact is the commission was not ready when the session convened to present a bill. They had performed their work conscientiously and believed their conclusions were correct, but they felt that, before a final decision could be reached that would answer all the demands of justice and fair play, the representatives of the corporations whose interests would be affected should be heard.

This was the course adopted. Notices of joint hearings by the committees of the two houses were sent to the officers of all the railroads in Wisconsin with a request that the presidents and attorneys of the roads attend in person and present the arguments of the corporations, if the proposed plan of taxing the roads on an ad valorem assessment should be objectionable to them. This course was adopted because there had been so much complaint during recent years concerning the railroad "lobby." These complaints had been made on the stump, in the administration newspapers, and in campaign literature. The "lobbyists" were represented to be men without consciences, responsibility, or principle. They were classed as "hired men" whose business it was to defeat all kinds of legislation that, in their opinion, might be detrimental to their employers and of advantage to the people. A conference with the lobbyists, therefore, was not desired by the committeemen. They wanted the railroad presidents and heads of the legal departments at their meetings if possible. Such a conference could not fail to enlighten both the members of the committees and the heads of the transportation companies and contribute to a better understanding.

The first meeting was held in the committee room of the senate committee on assessment and collection of taxes on Feb. 11, 1903,

there being present at the conference the committees of both houses, the members of the tax commission, Judge Gilson and Messrs. Curtis and Haugen, and officers of the several railroads doing business in Wisconsin. The Northwestern road was represented by President Marvin Hughitt and General Council Lloyd Bowers; President Earling and General council George R. Peck represented the Milwaukee road; T. H. Gill attended to the interests of the Wisconsin Central. The Burlington road was represented by W. W. Baldwin, assistant to the president. The smaller roads entrusted their interests to Norman James, president of the Wisconsin Western, or Kickapoo Valley road; H. A. J. Upham, who represented the stockholders of that road, and H. O. Fairchild, attorney for the Green Bay and Western.

It is not the intention here to review the arguments urged for and against the ad valorem system of taxation. It is sufficient to say that the officers of the railroads made a presentation of their case in a very temperate, conservative manner. One of the principal arguments and the one that appeared to be presented with the greatest confidence in its soundness and conclusiveness, was the statement by President Earling of the Milwaukee road that the railroads of Wisconsin paid one-eleventh of all the taxes collected in this state. He did not believe the roads owned one-eleventh of all the property in the state. Both Mr. Hughitt and Mr. Earling explained that in the states where the ad valorem assessment policy was in force the results were neither profitable to the states nor satisfactory to the railroad companies.

If the tax commission had already prepared a tentative bill at that time for presentation to the committee nothing was said at this meeting of that fact. That the members of the commission had outlined such a measure was generally understood, but they wanted to hear from the railroad officers before they presented it. They did not think "the case has been tried, and the hearing has been full;" that "judgment has been given again and again." They wanted to hear the other side of the case and gather what information they could from the testimony. This conference was the final hearing and the commission was then prepared definitely to recommend a bill to the two houses. A full report of the proceedings of the conference was presented to the senate by the committee on Feb. 18, and printed in the Senate Journal of that date, on pages 312 to 349. Other hearings were held later which were attended by the railroad officials, at which the details of the bill were gone through with item by item, but no official reports of these conferences were printed in the records.

The reader should bear in mind that the governor, in his message had spoken in the highest terms of the tax commission and recommended the bill "to be formulated" by that body as one that should be acted upon without delay. The case had been tried, he

said. There was nothing to consider. The tax commission had settled the entire dispute and they had embodied their conclusions in a bill that must be passed at once.

The tax commission bill, No. 332S., was introduced in the senate by the committee on assessment and collection of taxes on Feb. 13, two days after the conference with the railroad officials. This bill was introduced without change of any kind. It was the identical bill prepared by the commission. In it were embodied the results of nearly four years of careful investigation by the commission. As the commission would, under the operations of the measure, be charged with the duty of making an assessment of railroad property and computing the tax that must be paid on that assessment, the sections of the bill in which provision was made for assessing the property were drawn with particular care, as it was the determination of the commissioners to so do their work that it would stand the test in the highest court.

On the same day assembly bill No. 600 was introduced by the committee on assessment and collection of taxes in that house. This bill was a duplicate of the one introduced in the senate with three important exceptions. The senate bill provided for an assessment in the year 1903 for the taxes of 1904; the assembly bill provided for an assessment in the year 1903 for the taxes of 1903. By the senate bill the commission was required to make and complete the assessment by the first day of December, 1903; the assembly bill required that the assessment be completed by August 1, 1903. The senate bill provided that, after completing the assessment the commission should meet as a board of review in December, giving the railroad officials an opportunity to appear and show cause why the assessment should be changed, if any cause could be found; the assembly bill made no provision for a review of the assessment. The senate bill was referred to the committee on assessment and collection of taxes of that house and was never heard from again until it was withdrawn from the files by unanimous consent on May 20.

The tax commission bill, the one recommended in his message by the governor, manifestly did not receive the support and countenance of the governor's faction. On the contrary, the men who were in Gov. La Follette's confidence, who were nearest to him in the private, not to say secret, councils of his party, were the men who were behind the mutilated bill that was introduced in the assembly. They were the men who, on Feb. 28, were instrumental in having an amendment to bill No. 600A, reported, one that was intended to correct the manifest error already pointed out in the original bill by which the companies were not given an opportunity to appear before the commission sitting as a board of review, but which they made a bad matter worse by providing that the

assessment be completed by the fourth Wednesday in June—a physical impossibility.

This amendment to No. 600A, was reported by the committee on Saturday, Feb. 28, just as the house was about to adjourn so that members could leave for their homes. On Monday it was printed and placed on the desks of members, but there was little business transacted that day. The entire proceedings of the day do not cover four full pages of the journal.

On Tuesday, March 3, the bill appeared on the assembly calendar for the first time, and, as it was understood that amendments would be offered, the consideration of the matter was made a special order for the following day, Wednesday, March 4, at 10 o'clock a. m. On Wednesday the expected amendments were offered and voted down and the bill was ordered to engrossment and third reading. On Friday, March 6, less than a week from the time the amendments were introduced, during which time there were but four working days, this bill, the most important measure before the legislature and containing provisions that had never been considered by the tax commission or by the committees on assessment and collection of taxes of the two houses, was passed by the assembly and "put up to the senate."

It was reported at the time that the amendments to and changes in the assembly bill were the work of the tax commission. As a matter of fact the head of the commission, Judge Gilson, did draw the amendments at the request of certain administration leaders, but he gave it to be understood that he did not approve of them. He made no secret of the fact that he distinctly and emphatically disapproved of them. As it was a well known fact that the administration leaders in the assembly did not make any important moves without the consent of Gov. La Follette, it thus becomes clear that the governor himself was behind the attempt to ignore the recommendations of the commission. Had this attempt been successful a law would have been enacted that would have been impossible of enforcement and the courts would not have upheld it, thereby causing another delay of two years.

CHAPTER XVIII.

HOW AN AGREEMENT WAS REACHED.

It is impossible to avoid the conclusion that the administration members were playing politics with this bill. There was at this time no opposition to the proposed change of policy with respect to the taxation of railroad property recommended by the tax commission. It was conceded on all hands that the investigations by the commission, the conclusions reached and reports made by that body, had rendered such a change imperative. Even the officers of the railroads who took part in the conferences mentioned understood this fact. It is true they formally presented their arguments in favor of the license fee system, but it is equally true that they were reasonably certain the ad valorem system would be substituted for the license fee system by the legislature. While they opposed the change, they felt that under certain conditions that might reasonably be expected to arise the ad valorem system would be the better of the two, even from the standpoint of their own interests. There was no limit beyond which the license fee on gross earnings might not be raised. The amount of the fee was left to the determination of the legislature alone. It was not difficult to believe the time might come when the license fee, increased by the legislature to 6 per cent or more on gross earnings, largely expanded by the increased development of the country's resources, would prove to be a heavy burden.

But in "playing politics" with the taxation bill for the purpose of "putting it up to the senate" and manufacturing campaign thunder the assembly administration men made a fatal error from a "record" standpoint. They passed a bill containing directions with which the tax commission would not have been able to comply in making the first assessment of railroad property. It would have been a physical impossibility for the commission to put a valuation on Wisconsin railroad property in the time allowed. No amount of help and no available funds that might be provided would make it possible for them to undertake and complete the work within the time specified.

Up to the time they began the preparation of the bill introduced in the senate, the tax commission had made two estimates of the value of the railroad property in this state, one reported to the legislature in 1901 and the other in 1903. These estimates were intended to aid the legislature in determining for itself whether the railroad companies were bearing their fair proportion of the tax burdens.

But estimating the value of an entire class of property for the purposes of a legislature and making detailed assessments of that property for taxation purposes are two different matters. One may

be approximately correct only, the other must be demonstrably correct; one may be made without the knowledge or consent of the owner, in making the other the owner must be afforded every facility to be heard in order to satisfy the common rules of justice. In making an estimate of the value of the property of the railroads the stock and bond valuation and the capitalization of the net income were the simplest and most satisfactory means of arriving at the desired results. But in making an assessment for the purposes of taxation, it became necessary to place a valuation on all the physical property of the several roads—their rights of way, rolling stock and equipment of all kinds, as well as on their franchises. It was worse than foolish to expect the work to be completed in the time specified in the bill.

Gov. La Follette had said in his message that no more delays would be permitted. The case had been tried, he asserted, and judgment had been rendered. The state wanted $1,000,000 a year more from the railroads than they had been paying in the past. By forcing the tax commission to adopt its previous estimates of the value of railroad property without further verification or possible correction, without the necessary valuation of the physical property of the roads, the demand of the governor for $1,000,000 a year would be met, provided the courts did not interfere. There was the rub. The courts would have interfered to prevent the enforcement of such a loosely drawn, imperfect measure.

It may be of interest here to cite the fact that, during the entire controversy between the factions in this state, there was a small but respectable number among conservatives who were in favor of passing any measures the administration faction might propose. It was argued that the radical element was in control of the administration forces and that they were so extravagantly radical that they would never be able to prepare a measure that would stand the test of the courts. The bills they prepared were designed to "catch" some class of citizens or some industry and "fix" them. Naturally this was not the explanation given by the friends of these measures as a reason for their presentation or introduction, but the facts were well known. The primary election bill was designed to "catch" and "fix" the politicians and "bosses" on the other side, in the other faction. The railway taxation bill was designed to "catch" the railroad companies and "fix" them to the tune of $1,000,000 a year more than they were then paying. Railway rate regulation bills also were drawn with a view of taking over practically the entire management of the transportation lines and placing it in the hands of a state board.

Had the conservative element in the legislature—or, more accurately speaking, the senate, for the conservatives in the assembly in 1903 did not exert any influence on the work of that house—permitted the radicals of the assembly to enact into statute laws the

"reform" bills prepared and presented by the administration leaders and committees without amendment or objection, the people of Wisconsin would have been treated to the most remarkable illustration of the destructive tendency of hasty and ill advised legislation of modern times. As a matter of fact, the administration men developed a positive genius for blunders in framing bills and an equally remarkable genius for evading the consequences of their blunders in being helped out of their difficulties by conservative amendments. This statement holds good when applied to the entire period of controversy and to every important subject of legislation considered during that time, with the single exception of the primary election law. The radicals were bent on rushing to destruction; the conservatives held them back and guided them by a safe path around the dangers that beset them. The goal was finally reached in spite of—not because of—the intemperance of the radicals who claimed all the credit for progress made. They even adopted the title "Progressive" as one peculiarly fitting their own exalted personalities, while they assigned to their guides the reproachful designation, "Reactionaries."

As was usual, the conservatives of the senate, with the aid and consent of the tax commission, be it known, prepared a series of amendments to the railway taxation bill when it came up in that house. With one exception the senate amendments finally were accepted by the assembly. That single exception was the proposal to exempt from taxation the bonds of railroad companies. The tax commission had, in computing the value of the railroad property in this state, taken as a basis for their figures the value of the stocks and bonds of the companies for periods of three, five, and seven years. It was considered fair and just to exempt those bonds from taxation in the hands of individual owners after having included them in the assessment of the railroad property and taxed them to the company itself. This was the action recommended by the tax commission and urged by the senate committee, but the assembly refused to accept the amendment and the senate withdrew it rather than defeat the bill altogether.

Senate amendments that were accepted by the assembly, however, were important in that they removed the main objections to the bill. The time given the commissioners to complete the first assessment of the property of the Wisconsin railroads was extended from August 1, 1903, to December 1, 1903, as was also the time for fixing the valuation of the real and personal property of the state for the purpose of computing the rate of taxation to be applied to railroad property. The proposition to levy a tax on the ad valorem plan in the year 1903 was abandoned, it being determined that the first assessment, made in 1903, should be used to determine the amount of the taxes for 1904, and the taxes in 1905 should be based on the assessment of 1904.

There were a number of minor amendments proposed by the senate and accepted by the assembly, but it is unnecessary to give them in full. It is sufficient to say that they were all drawn by the tax commission and they were all designed to strengthen the measure. The tax commission also prepared the amendment exempting railroad bonds from taxation, which was rejected by the assembly.

In order that there may be no doubt about the position taken by the so-called "reactionaries" with respect to the ad valorem railway taxation bill, the following quotation from the official records is given at some length. This excerpt is taken from the report of the conference committee on No. 600A, and will be found on page 1054 of the Senate Journal, exhibit B. senate reply in writing to the propositions of the assembly conferees:

"4. Senate conferees once more call attention to the origin of bill No. 600A, and of the senate amendments thereto. The tax commissioners prepared a bill in manifold copies entitled, 'A bill to provide for the taxation of railroads and making an appropriation therefor.' One of these copies was transmitted to the committee on assessment and collection of taxes in each house for introduction, and on the same day the copy received by the senate committee was introduced without any changes whatever, as bill No. 332S, and the copy received by the assembly committee was introduced with a number of amendments as bill No. 600A. Section 25 of this bill was not changed by the assembly committee before its introduction, and the section appears both in bill No. 332S. and in bill No. 600A, as printed, as the senate would have it appear in amended bill No. 600A. All of the amendments proposed by the senate were prepared by the tax commissioners and in accordance with their judgment of the amendments required to enable the senate to make the bill what it ought to be, and senate conferees have no more hesitation in urging assembly conferees to accept the rejected amendment than they would have had in insisting upon concurrence in any of the other amendments offered to and concurred in by the assembly. The bill in its present amended form (including the rejected amendment to section 25), is the bill contemplated in the report of the tax commissioners, and senate conferees insist that both senate and assembly are obligated to enact it as a law. In his biennial message to the legislature, Gov. La Follette said

" 'You will soon be in possession of the report of the tax commission. It represents nearly four years of labor by the able members of that body without bias or prejudice, prompted solely by a desire conscientiously to discharge high official obligation. I am confident you will place a reliance upon the work of this commission that the public has already sealed with its approval. If the inauguration of the investigation of this subject by the commission was in good faith, then in good faith those for whose guidance its work was planned are bound to give heed to its findings and recommendations.'

"5. Assembly conferees characterize the rejected senate amendment as proposing 'a most intolerable form of class legislation and one which can in no way be justified or defended before the people.' Senate conferees regret that the assembly conferees should have used language which seems to place them in antagonism to both the tax commission and the governor.

II.

"1. Senate conferees are in accord with assembly conferees in their utmost desire to stand 'upon the broad principle of the equal and just taxation of each individual and every corporation.'

"2. Assembly conferees reiterate the constitutional questions raised by them in the informal conferences already held by the joint committee. Senate conferees express their regret that their suggstions that the tax commissioners and the attorney general be called to the aid of the joint committee were not acted upon.

"3. Senate conferees have relied upon the reports of the tax commission and upon the fact that the amended bill itself was prepared and recommended by the tax commissioners as sufficiently assuring that the bill was not open to constitutional objections. Senate conferees do not agree to the position taken by assembly conferees that the exemption of the bonds of a railway company secured upon its property fully taxed as other property is taxed would invalidate the bill, nor do they agree that the amendment in question would justly give rise to 'a charge against the legislature of enacting inequitable class legislation.' Nevertheless senate conferees state that they deem it urgently necessary that any uncertainty surrounding this bill be promptly removed, and that every doubt that any member of the joint committee on conference may entertain respecting the validity of the bill be at once dispelled. Senate conferees therefore agree that the senate shall recede. They ask the immediate return of the papers to the senate for the purpose of carrying out this agreement."

The senate having receded from its position, the bill was passed and became a law, chapter 315, laws of 1903. This law was in effect the original tax commission bill with the exception of the provision to exempt from taxes all railroad bonds. The members of the committees before whom the hearings were held were:

Senate: Senators Whitehead, chairman; Gaveney, Hatton, O'Neil, Bird, Johnson, and Stout.

Assembly: Messrs. Smalley, chairman; Dahl, Whitson, Henry Johnson, Dinsdale, Doolittle, Terrens.

CHAPTER XIX.

Summary of Taxation Legislation.

To the end that the facts with respect to taxation legislation during the last twelve years may be clearly and easily grasped by the reader, the following summary of laws enacted has been arranged, together with their origin and the support they received in the upper and lower house.

Chapter 340, laws of 1897; the law creating the first tax commission. Drawn by K. K. Kennan; introduced by Assemblyman Merriman of the Third Rock county district. Passed by a conservative legislature and signed by a conservative governor.

Chapter 206 and chapter 322, laws of 1899; creating permanent tax commission. Drawn by committee on assessment and collection of taxes, Senators Whitehead, Riordan, and Thayer. A conservative measure passed by a conservative legislature and approved by a conservative governor.

Chapters 111, 112, 113, and 114, laws of 1899, providing for the ad valorem taxation of express, sleeping car, freight line and equipment companies. Known as the "Whitehead laws"; conservative measures, passed both senate and assembly without a dissenting vote and signed by Gov. Scofield. With a few minor changes these laws are still in force.

Chapter 345, laws of 1899; the inheritance tax law. Recommended by the first tax commission; drawn by senate committee on assessment and collection of taxes; passed both houses with little opposition. This law was later declared void by the Supreme court because of a technical error in its construction, but the necessary correction was made, and the law was re-enacted in 1903. Is now in force. A conservative law.

Chapter 326, laws of 1899; Judge Orton's insurance taxation bill. Drawn by Assemblyman P. A. Orton of Lafayette county, a conservative. Passed both houses by good majorities and received the approval of Gov. Scofield. This was during the last conservative administration.

Chapter 379, laws of 1901, provided additional penalties and punishments for violations of the assessment laws by assessing officers and property owners and for neglect of duty by assessing officers. This and the two following statutes were drawn by the tax commission and were passed with little opposition.

Chapter 330, laws of 1901, provided for the removal of assessing officers for violation of assessment laws or for neglect of official duty.

Chapter 445, laws of 1901, created the office of county supervisor of assessments. There was no controversy over this law, as it was passed without substantial opposition.

Chapter 237, laws of 1901, enlarged the duties and powers of the tax commission by making that body a state board of assessment to assess the general property of the state for the levy of state taxes. This bill was introduced by the committee on assessment and collection of taxes in the senate, a conservative committee, and passed both houses without opposition.

Chapter 35, laws of 1903, and chapter 477, laws of 1905, made some changes in the method of assessing and collecting the taxes of express, sleeping car, freight line and equipment companies. These measures were presented by the senate and assembly committees on assessment and collection of taxes respectively and they were passed without a dissenting vote in either house.

Chapter 44, laws of 1903, the inheritance tax law now in force. This bill, No. 331S, was drawn by the tax commission, introduced in the senate by the committee on assessment and collection of taxes, and passed that house by a unanimous vote. When it came up for passage in the assembly the vote was 76 to 18, and the bill passed and became a law. It was subsequently amended without opposition during the same session in order to correct errors that had crept in.

Chapter 316, laws of 1903, and 523, laws of 1905, amendatory to chapter 445, laws of 1901, creating the office of county supervisor of assessments, passed both houses without opposition. These laws were all drawn by the tax commission.

Chapter 315, laws of 1903, is the ad valorem railway taxation law. The original bill was drawn by the tax commission and was introduced in the senate without change by the committee on assessment and collection of taxes. A mutilated bill was introduced in the assembly committee of that house. This bill did not receive the indorsement of the tax commission, but it represented the views of Gov. La Follette. It was railroaded through the assembly in less than a week and was "put up to the senate," the conservative body. A deadlock resulted, which was finally settled by compromise by a conference committee, the assembly consenting to accept all senate amendments but one—the exemption of railroad bonds from taxation. With that exception the statute as it was finally enacted was the work of the tax commission.

Chapter 216, laws of 1905, amended the above law in some respects as the experience of the commission suggested. This amendment was drawn by the tax commission. It was introduced in the assembly by Henry Johnson "by request," and passed both houses without the formality of a roll call, there being no opposition.

Chapter 259, laws of 1905, authorizing the commission to review assessments made by county boards, prepared by the tax commission and introduced in the assembly by the committee on assessment and collection of taxes, passed that body by a vote of 72 for

and 2 against, those voting no being Assemblyman Frank Johnson of Walworth and John Scott of Columbia county. The vote in the senate was unanimous for the bill.

Chapter 493, laws of 1905, for the assessment and taxation of street railway companies by the tax commission, was prepared by the commission and introduced in the assembly by the committee on assessment and collection of taxes. It passed both houses without opposition, the vote on roll call being unanimous in both instances. In the assembly 74 votes were cast for the bill and 21 in the senate. There was a deadlock on this bill for a time, the assembly refusing to concur in an amendment made by the senate. The matter was referred to a conference committee of the two houses, consisting of Senators George B. Hudnall, W. H. Hatton, and A. W. Sanborn, and Assemblymen A. H. Dahl, Henry Johnson and J. M. Crowley. The assembly conferees finally agreed to report in favor of receding from their position and the unanimous vote in favor of the bill as amended by the senate was the result.

Chapter 494, laws of 1905, for the assessment and taxation of property of telegraph companies by the commission. Introduced in the assembly by the committee on assessment and collection of taxes and passed that body by a vote of 67 for and 14 against. Senate committee offered an amendment in the form of a substitute which was adopted by that body by a unanimous vote. Senate substitute then went to the assembly, where it was concurred in by a vote of 68 for and 1 against. Assemblyman Brockhausen was the one member who voted alone in opposition to the measure.

It will thus be seen that the real constructive work for the improvement of the taxation system in this state has been done by the conservative tax commission aided by the conservative members of the legislature. So far as taxation legislation is concerned the so-called "progressives" cut an insignificant figure in the official records of the state except in one case—where they attempted to delay progress by forcing the enactment of a law that could not have been enforced.

CHAPTER XX.

THE WORK NOT YET COMPLETED.

It is not the purpose of this review to criticise unjustly past administrations, the tax commission, or the legislature for their failure to speak the last word in taxation reform. Much has been accomplished, as already has been shown. There remains much more that must be done before the citizens will be in a position to give their unqualified approval to the work of taxation reform and its results.

Criticism that begins and ends in criticism, and has no purpose but criticism, degenerates into plain fault finding, and is the office of the common scold. The publication of the truth about state affairs for the purpose of enlightening the citizens concerning the details of their public business is another matter. It is only by spreading abroad the facts with respect to the history and effect of the taxation reform and other movements that the people can arrive at an understanding of the present situation and provide for the future.

As has been shown, the real constructive work for taxation reform was performed by the conservative element in Wisconsin. The movement had its birth in the conservative ranks and every step of a progressive character originated with them, and was carried to a successful conclusion by and through their efforts. They believed there was no royal road to success in the line of taxation reform, and for that reason they made progress slowly. Had the councils of the intemperate advocates of drastic measures been heeded by the legislature conditions would have been very different from those that now obtain. We would have had litigation promptly begun, and carried to a successful conclusion, thereby bringing about cancellations of tax levies, an impoverished treasury, and increased burdens. As it is, we merely have more money than is required for the needs of the state if its affairs shall be economically and judiciously, not parsimoniously, managed.

When Gov. La Follette said, in his message read to the legislature in 1901, that "The period covered by two biennial sessions of the legislature would appear to be a generous allowance of time for a thorough and complete performance of the work contemplated by the law" creating the tax commission he merely expressed an opinion that was based on little definite information. The same opinion prevailed in Minnesota about the same time. A commission was appointed in that state to revise the taxation laws and it performed the work assigned to it. When the new code was presented to the legislature it was rejected and a permanent commission was appointed to assist in the labors of the legislature to accomplish the same end.

When an attempt was made in 1903 to force through a bill that had for its object but one purpose, an additional "$1,000,000 a year" collection from the railroads, because, as Gov. La Follette expressed it, "The people want $1,000,000 a year, because that is the sum owing," the conservatives resisted and secured the enactment of a law that provided for a legal assessment of railroad property. They did not get the additional $1,000,000 a year until 1906, but when they did get it they were sustained by the courts and it is regularly collected each year now. This was better than to go into court with a law that would not have stood the test.

That much has been accomplished is known by all classes of citizens. They know that the assessment of property is not quite such a haphazard, unsystematic, illogical process as formerly, because the local assessors work under supervision of county supervisors of assessment and the county supervisors are directed in their labors by the state tax commission. They know that the corporations pay taxes at the rate charged against other property in the state. They know that a graduated and progressive inheritance tax has been incorporated into our system. They know that the injustice that resulted from the attempt to enforce the old mortgage taxation law is a thing of the past. If nothing else has been accomplished, this is something and this something is worth while.

In summing up the results of the legislative and administrative labors of the last twelve years it is found that there is much to be done before the taxation system of the state can be said to have been perfected. The income of the state has been enormously increased, it is true, but no corresponding reduction in state taxes levied upon and collected from the counties has been achieved. There is a popular belief that the increase in corporation taxes has made it unnecessary to levy state taxes, but this is an error. Taxes are still levied for the support of charitable and penal institutions and for free high schools, graded schools, common schools, the university, agricultural college, and normal schools. The increase in corporation taxes and state tax levies in ten year periods is illustrated by the following statement compiled from official figures found in the reports of the tax commission for the years 1907 and 1909:

CORPORATION TAXES.

1889	$1,060,560.05
1899	1,711,387.60
1908	3,992,530.07

STATE TAX LEVIES.

1889	$1,207,796.97
1899	1,709,198.37
1908	2,950,110.87

In spite of the fact that the corporation payments to the state have jumped in ten years from $1,711,387.60 to $3,992,530.07, an increase of $2,281,142.47, the state tax levies also have increased

$1,240,912.50, a total increase in these two items alone of $3,522,054.97. This is in addition to other increases of revenue which have more than doubled in the ten years from 1889 to 1908, inclusive. The total increase in revenues in 1908 over 1899 was $4,229,666.31, or 103.91 per cent. The increase in disbursements during the same period, according to the tax commission's tables, amounted to 99.85 per cent. The percentage of increase in revenues from all sources except taxes for the decade was 126.58; the percentage of increase of taxes under the general property tax laws was 72.60.

When, in 1899, Gov. Scofield warned the people of the state in a public address that there was danger of collecting more money than was actually needed by the state, he had in view just such a contingency as is now presented. The state has been liberal in its expenditures, the amount increasing from year to year, and the balances in the treasury also have increased. During the fiscal year ending June 30, 1908, the disbursements for all purposes, according to the reports, amounted to $7,762,771.49, and there was a balance in the treasury at the end of the term of $1,546,509.90.

For the two years ending September 30, 1900, the last term of Gov. Scofield, the disbursements of the state for all purposes amounted to $7,883,574.89; the disbursements for the biennial term ending June 30, 1908, were $14,229,037.78.

It goes without saying that the expenses of a great state like Wisconsin will increase from year to year as the population grows and the cost of maintaining public institutions multiplies. The state must pay the cost of administering its laws; it must maintain its courts; it must care for and educate its defectives; it must maintain its schools and colleges, and its university; it must confine its confirmed criminals and at least attempt to reform its wayward young people and first offenders. And it must pay for all these things.

But the population of the state has not doubled in ten years. All the legitimate demands of the time were reasonably provided for ten years ago, and it requires a stretch of the imagination to believe that the genuine demands upon the state's revenues have increased approximately 100 per cent in that time.

One of the principal arguments in favor of reforming the taxation system was that thereby taxes would be equalized. This did not mean that the taxes of corporations and citizens who were not paying their just proportion should be raised and those who were paying more than their fair share should be maintained at their original rate. In the public mind it meant that there should be a leveling process, a raising in one place and a corresponding lowering in another until a fair equalization of the burdens of government should be reached. It was believed this result could be approximated.

To the end that the reader may understand in what departments of the state government the increases in expenditures have occurred

the following summary of disbursements has been compiled from the official reports of the tax commission for the years 1907 and 1909, three years, 1889, 1899, and 1908, being selected to illustrate the abnormal increase of the last decade:

GENERAL FUND DISBURSEMENTS.

	1889.	1899.	1908.
Executive and administrative	$ 79,264.73	$ 154,932.56	$ 171,805.15
Judiciary	88,758.71	122,028.94	224,307.37
Legislative	169,139.00	200,597.01	113,774.37
Boards, commissions, etc	137,708.94	264,870.53	793,703.86
Permanent expenses	766,427.82	1,427,653.91	2,174,618.72
Educational disbursements	84,941.14	98,387.96	932,034.25
Miscellaneous	209,748.16	143,953.36	83,652.58
Capitol building commission	.....	.....	406,701.34
Total	$1,535,988.50	$2,412,424.27	$4,900,597.64

DISBURSEMENTS EDUCATIONAL FUNDS.

University of Wisconsin	$ 133,833.70	$ 390,133.78	$ 895,195.18
Common schools	781,344.53	778,689.25	1,575,426.08
Normal schools	108,548.77	287,579.82	360,230.67
Agricultural college	14,512.26	15,512.34	13,064.52
Total	$1,038,239.26	$1,471,915.19	$2,843,916.45
Disbursements fire marshal's fund	.....	.....	18,257.40
Total all disbursements	$2,574,227.76	$3,884,339.46	$7,762,771.49

CHAPTER XXI.

AN ENORMOUS INCREASE IN COST OF GOVERNMENT.

In his first message to the legislature in 1901 Gov. La Follette inserted a table of receipts and disbursements of the state government from 1889 to 1898, inclusive. As the figures found in his table do not agree with those printed in the commission's report for the same years the conclusion is natural that they are only approximately correct, but they will answer the purpose. The governor estimated that the increase in expenses for the ten year period had been about 50 per cent, and he was alarmed. He said, after referring to the table:

"The above table of aggregate receipts and disbursements for a period of years, I believe you will find of value. It shows a steady and rapid increase in the cost of state government. While there is abundant evidence of expanding usefulness and of unquestioned public benefits derived from most of the new expenditures incurred by the state, an advance of almost 50 per cent in the cost of state government within a period of ten years is entitled to high rank among the facts worthy of grave consideration in all departments of government."

The actual increase in state expenses shown by his figures for the period mentioned was about 44 per cent. The increase for the ten years from 1899 to 1908 was 99.85 per cent. If Gov. La Follette saw reason for grave consideration in the former, there is more reason why the people of the state in general and the departments of government in particular should regard the latter as of prime importance.

A large part of the increase in revenues during the last decade has come from corporation taxes, but, in the last analysis, the conclusion is inevitable that the masses of the people of the state pay those taxes as well as the direct levies upon their property. The railroads, for instance, have but one source of revenue. They collect their incomes from the public in the form of passenger fares and freight charges. As they are permitted by law to charge enough for their services to pay all expenses, inclusive of taxes, and leave a balance of profit to be used in paying dividends, the taxes paid to the state are passed along to their patrons. In this way the people of the state in which the roads do business pay the taxes of the road as well as the direct taxes levied upon their property by the state, counties, municipalities, towns, and school districts.

It has been argued by economists that all taxes are finally "passed" to the consumer, and this is literally true with respect to corporation taxes. It is not entirely true in all cases, however. The owner of city property who secures his income from rents can pass his taxes to the renter at times. But there are cases where competition with other landlords makes it impossible for him to do so.

A vacant house or flat brings in no income and it is frequently impossible for owners of urban property to charge enough rent to reimburse them for taxes, repairs, insurance, and interest. With quasi-public corporations that pay large sums to the state in the form of taxes this is not the case. They can and do pass the tax charges to their customers.

For this reason it is plain that the people who pay the taxes in the end should scan closely the account of money collected and expended by the state administration. It is not the intention here to counsel the adoption of a niggardly, parsimonious policy, one that would hamper the administrative officers in the discharge of their duties, but a wise economy need not spell parsimony; a careful husbanding of the resources of the state does not necessarily mean the cutting off of any useful expense that is of "unquestioned public benefit."

The published reports of state receipts and disbursements do not convey to the mind of the average reader a clear idea of where and how the state's money is expended. For this reason the following tables have been prepared, the items of expense being classified or grouped so that a glance will show in what departments of the state's activities the largest amounts have been expended and the greatest increases have occurred. The first table shows the disbursements of the executive and administrative, judicial and legislative departments for the three years selected, 1889, 1899, and 1908:

EXECUTIVE AND ADMINISTRATIVE DEPARTMENTS.

	1889.	1899.	1908.
Executive department	$ 9,325.00	$ 17,363.21	$ 13,738.47
State department	27,752.50	42,397.45	44,177.83
Treasury department	16,365.00	19,897.13	19,744.93
Attorney general's department	5,092.00	12,098.84	20,813.94
Superintendent public instruction department	9,398.03	24,554.61	43,066.94
Insurance commissioner's dep.	4,638.90	20,408.49	30,263.04
Railroad commissioner's dep.	6,693.30	18,212.83	.....
Total	$ 79,264.73	$ 154,932.56	$ 171,805.15

JUDICIARY.

Supreme court	$ 32,304.00	$ 38,371.93	$ 59,775.26
Circuit Court	51,890.32	76,296.87	153,001.97
State law library	4,564.39	7,360.14	11,530.14
Total	$ 88,758.71	$ 122,028.94	$ 224,307.37

LEGISLATIVE.

	1889-'90.	1899-'00.	1907-'08.
1889.....$169,139.00			
1890..... 1,029.10			
Biennial period	$170,168.10	$.....	$.....
1899.....$200,597.01			
1900..... 6,256.38			
Biennial period	.....	206,853.39	.....
1907.....$165,590.95			
1908..... 113,774.37			
Biennial period	.....	.....	279,365.32

BOARDS, BUREAUS, COMMISSIONS, ETC.

	1889.	1899.	1908.
Superintendent public property and labor	$ 43,806.51	$ 65,273.82	$ 144,506.02
State Historical society.....	9,800.00	14,181.49	38,169.04
Bureau labor statistics	9,145.20	16,955.61	41,055.51
State land department	14,976.47	27,497.20	10,064.55
Dairy and food commission.....	3,490.81	12,984.80	42,290.37
State veterinarian	3,906.68	5,825.60	65,531.57
Oil inspection	.....	.....	147.12
Land protection	5,065.70	4,397.17	.....
Pension agent	1,657.91	.....	.....
Game and fish wardens.....	5,898.02	13,095.45	5,073.51
Fish culture	14,000.00	26,288.61	57,051.55
State board of supervision.....	13,116.39	.....	.....
State board charities and reform	8,139.46	.....	.....
State board of control.....	.....	23,744.40	24,865.74
State board of health.....	4,705.79	5,277.73	15,643.49
State tax commission.....	.....	5,065.83	51,470.70
State bank examiner	.....	10,929.33	.....
State banking department.....	.....	.....	21,672.30
State treasury agent.....	.....	2,360.93	4,716.12
Board of arbitration.....	.....	920.20	853.54
Free library commission.....	.....	6,189.91	35,287.52
Board of bar examiners.....	.....	1,524.59	1,429.66
Board of immigration.....	.....	2,582.62	6,324.67
State railroad commission.....	.....	.....	65,683.51
Civil service commission.....	.....	.....	11,426.35
Forest wardens	.....	376.01	.....
Board of forestry	.....	.....	10,889.95
Geological and natural history survey	.....	9,386.17	25,636.60
Grain and warehouse commission	.....	.....	3,500.00
Board of agriculture.....	.....	.....	80,837.96
Inspection of apiaries	.....	.....	577.36
Commissioners of public print'g.	.....	.....	225.07
Interstate park commission....	.....	.....	12,304.71
State board medical examiners.	.....	.....	39.62
State park board	.....	.....	700.00
Sundry temporary commissions.	.....	10,013.06	9,558.61
Waterways commission	.....	.....	5,957.74
State board canvassers.....	.....	.....	213.40
Total	$137,708.94	$ 264,870.53	$ 793,703.86

PERMANENT EXPENSES.

	1889.	1899.	1908.
Charitable and penal institut'ns.	$467,328.46	$ 711,572.11	$1,284,613.30
Maintaining insane in counties.	199,866.26	390,769.87	434,715.30
Acute and chronic insane.....	.....	.....	62,205.10
Wisconsin National guard.....	63,692.71	143,479.43	148,643.74
Bounty on wild animals	7,985.00	10,033.00	24,624.00
Agricultural Experiment ass'n..	.....	.....	2,763.08
Agricultural and industrial societies	12,226.60	25,881.44	17,777.24
County agricultural societies...	15,328.79	50,265.34	85,740.48
Wisconsin Veterans' home.....	.....	95,652.72	113,536.48
Total	$766,427.82	$1,427,653.91	$2,174,618.72

MISCELLANEOUS.

Contractors state capitol.....$	26,000.00	$.....	$.....
Sundries	9,227.14	.....	.....
Printing, publishing, advertising	81,089.65	.....	.....
Compiling war records	17,400.96	.....	.....
Stationery, postage, paper.....	15,098.68	13,256.50	.....
Fuel and light.....	16,133.41	6,619.26	.....
Incidental expenses	17,726.18	16,901.65	.....
Miscellaneous	27,072.14	6,604.15	62,529.00
Draftsmen	.....	1,106.45	.....
Statement real estate sales.....	.....	1,385.50	1,459.53
Expert accountants	.....	1,060.39	.....
State historical library building fund	.....	60,000.00	.....
Sanborn & Berryman's statutes.	.....	22,554.00	.....
Barron county fire sufferers.....	.....	10,000.00	.....
Repairs, Ch. 15, laws of 1899...	.....	1,992.83	.....
Sundry refunds	.....	2,472.63	.....
Reporting criminal statistics...	.....	.....	31.20
Prevention San Jose scale.....	.....	.....	857.24
Memorial hall	.....	.....	146.18
Governor's contingent fund.....	.....	.....	2,000.00
Claims against United States...	.....	.....	3,879.54
Tax title lands purchased.....	.....	.....	751.32
Compiling and publishing town laws	.....	.....	3,710.97
Public documents	.....	.....	1,802.96
Disbarment proceedings	.....	.....	1,782.13
Reviewing assessments	.....	.....	4,702.51
Total	$209,748.16	$ 143,953.36	$ 83,652.58

GENERAL FUND EDUCATIONAL APPROPRIATIONS.

Common schools	$.....	$.....	$ 308,109.36
University	56,715.30	27,797.25	49,952.82
Normal schools	1,922.54	2,704.73	259,337.41
Graded schools	.....	.....	71,500.00
Free high schools	26,303.30	48,163.11	122,481.01
Deaf mute instruction in cities	.....	19,222.87	39,480.85
County training schools for teachers	.....	.....	35,433.98
County schools of agric. and domestic science	.....	.....	8,000.00
Manual training in high schools	.....	500.00	5,000.00
Mining trade school	.....	.....	21,701.97
Academy science, arts and letters	.....	.....	2,036.85
Teachers' county institutes	.....	.....	9,000.00
Total	$ 84,941.14	$ 98,387.96	$ 932,034.25

TAXES FOR EDUCATIONAL PURPOSES AND TRUST FUND INCOME.

Common schools	$781,344.53	$ 778,689.25	$1,575,426.08
University	133,833.70	390,133.78	895,195.18
Normal schools	108,548.77	287,579.82	360,230.67
Agricultural college	14,512.26	15,512.34	13,064.52
Total	$1,038,239.26	$1,471,915.19	$2,843,916.45
Total disbursements educational purposes	$1,123,180.40	$1,570,303.15	$3,775,950.70

TOTAL DISBURSEMENTS EDUCATIONAL FUNDS CLASSIFIED.

Common schools	$781,344.53	$ 778,689.25	$1,883,535.44
University	190,549.00	417,931.03	945,148.00
Normal schools	110,471.31	290,284.55	619,568.08
Miscellaneous	26,303.30	67,885.98	314,634.66
Agricultural college	14,512.26	15,512.34	13,064.52
Total	$1,123,180.40	$1,570,303.15	$3,775,950.70

CHAPTER XXII.

Where Expenses Have Increased.

The most considerable increase in the cost of government is shown by the tables to have been in the maintenance of the educational institutions, which cost $1,570,303.15 in 1899 and $3,775,950.70 in 1908, an increase of $2,205,647.55. The state paid $1,104,846.19 more for the maintenance of its common schools in 1908 than it did in 1899. This amount was merely collected from the taxpayers in the form of a state school tax and then returned to the counties on the basis of the school census. The counties were required to raise an equal amount in the form of a county school tax.

This method of doing business is not approved by the best authorities, either among the schoolmen or economists. In commenting on this subject in its report of 1903 the tax commission said (page 39):

"The effect of the mill tax is to make the wealthy counties with a relatively smaller school population contribute to the counties having less material wealth but rich in the number of school children. The law has been in force since 1885, and while the tax was limited by undervaluation of assessing officers to $600,000 or thereabouts without material change from year to year, its burdens were not felt. It is believed, however, that the amount of this tax under the full value assessment is larger than required by the best interests of the common schools, and that it tends to destroy that healthy local interest which follows where the community itself is held at least in part responsible for the maintenance of the school. During the last year in many country districts no district tax was levied, the school being maintained entirely by the school fund apportionment, including the mill tax and the corresponding tax levied by the county board upon the towns. In some districts the moneys thus collected left a surplus in the district treasury. Such a condition has a tendency to breed a degree of extravagance which should be discountenanced in public affairs."

The legislature attempted to correct this manifest mistake of policy by fixing the rate of the school appropriation at seven-tenths of a mill. Of this amount $200,000 was taken from the general fund and the balance was raised by a tax upon all property except that paying a license fee (chapter 313, laws of 1903). In its report for 1907 (pages 79 and 80) the tax commission thus commented on the situation at that time:

"With a constantly increasing state assessment the fund thus provided becomes larger each year. Now that the state assessment has reached $2,124,800,000 this 7-10 mill tax, together with the regular income of the school fund, amounts to about $1,600,000."

* * * * * * * * * *

"The tax and its distribution are illogical, wasteful and demoralizing in any district where the amounts received from the state and from the corresponding levy by the county board create a larger fund than the needs of the school properly and liberally managed require."

It may be said that, so long as the money is collected as a general property tax and is subsequently returned to local officers it is merely taken from one pocket and put into another, but this is not strictly true. The state and county school taxes are paid back to the school districts, and the officers of the districts look upon the amounts as a species of contribution. They do not collect and expend the tax directly. In some cases they receive more than they pay in the form of state and county school taxes. In any event the payment of the tax is made in a roundabout way, and whether they receive more or less than they pay, it is too much like getting something for nothing—picking money out of the air.

Two distinct evils grow out of the practice. One is that tendency toward extravagance mentioned by the tax commission; the other is a tendency in the opposite direction where the money received falls short of the amount required to run the school as it should be run. If, by cutting the teacher's salary and practicing other unwise economies, the expenses of the district can be kept within the limit of the sum received from the state and county, the school board is too apt to recommend the "passing" of the district school tax and the annual meeting will in a majority of cases follow the suggestion. In this way the too liberal policy of the state operates to the disadvantage of the school.

Another material increase in disbursements is found in the item of boards, bureaus, and commissions. In 1899 the state expended $264,870.53 for the support of these bodies; in 1908 the cost to the state for the same service was $793,703.86, an increase of $528,833.33. As the items of which this substantial sum is made up are given in the table in detail comment is unnecessary, but one may be allowed to suggest that an increase of more than $100,000 in the expenses of the superintendent of public property in ten years is a matter worthy of careful consideration. The largest single item of expense in this department of the state's business is in labor about the capitol and grounds.

The expense incidental to maintaining the charitable and penal institutions has increased as a natural consequence of the increase in the number of inmates of the several institutions. The advance in the price of many articles that enter into the cost of living has had some influence on the expenses of these institutions during the last decade. On the other hand, the larger average population of the institutions has operated in most cases to reduce the per capita cost of maintenance. According to the report of the board of control for the year of 1907, the latest figures available on this subject, the average population and per capita cost per week of maintenance at the beginning and end of the decade from 1897 to 1906 was as follows (Wis. Pub. Documents, 1905-1906, vol. 3, pages 40 and 41 of report of board of control):

	Average Population.	Per Capita Cost.
State hospital for insane—		
1897	405	$5.38
1906	459	4.52
Northern hospital for insane—		
1897	539	4.75
1906	632	3.85
School for deaf—		
1897	136	6.48
1906	187	5.01
School for blind—		
1897	80	7.94
1906	93	7.01
Industrial school for boys—		
1897	346	3.54
1906	312	3.95
State prison—		
1897	601	2.89
1906	641	3.41
State public school—		
1897	262	3.51
1906	156	4.56
Home for feeble minded—		
1897	42	7.08
1906	681	3.00
State reformatory, Green Bay—		
1901	128	5.33
1906	290	2.40

As shown by the above figures, which are official, the net increase in the average population of the above institutions during the decade under consideration was 919. The net increase in the cost of maintaining the institutions during the same decade was $335,180.29. The net increase in the cost of the same institutions for the year 1908 over 1906 was $341,259.51, or $6,079.22 more than for the ten previous years.

It is understood that in computing the cost per capita per week of maintaining inmates in the state institutions the board has not included the cost of administration at the several institutions, the "maintenance expenses" alone being figured. For instance, the board reports an average population of 681 at the home for the feeble minded, maintained at a weekly per capita cost of $3. For fifty-two weeks of that year this would make a total cost of maintenance of $106,236. In the statement for the year 1906 printed in the tax commission's report for 1907, page 245, the cost of that institution to the taxpayers of the state is given as $151,233.86, which would mean a balance for administration and improvements above the per capita cost of maintaining inmates of $44,997.86.

Another matter, small in itself, yet showing the tendency of the state's disbursements to steadily increase, is the item of "bounty on wild animals." Wisconsin has done much during the last twenty years to reduce the extent of its wild areas. Railroads have been built through the forests; wagon roads have been opened from

the railroad stations in all directions and settlers have multiplied until there are few counties in the northern half of the state that can be said to be comfortable abiding places for the kind of wild animals on which the state pays a bounty. There are men who have lived in northern Wisconsin for more than a quarter of a century and who have spent considerable time in the woods who have never seen or heard a wolf, a wild cat, or any other obnoxious wild animal, and yet the amount of money paid as bounty on wild animals increased from $7,985 in 1889 to $24,624 in 1908. Why?

It may be explained here that the hunting license money does not appear in the accounts herewith printed for the reason that it is a special fund. The account is kept in a separate book in the offices of the secretary of state and state treasurer, but in making up the reports from which the figures in this review are taken it was not thought necessary to give an accounting of this fund.

CHAPTER XXIII.

Uncalled for Extravagance.

George Curtis, Jr., a member of the tax commission and the one member who has served continuously since the organization of the temporary commission in 1897, delivered an address before the Wisconsin Municipal league on Sept. 3, 1908, which address is printed in the official report of the tax commission for the year 1909, as appendix C, pages 149 to 170. This address is a valuable contribution to the literature on the subject of taxation and it should be widely read. For the purposes of this review, however, references will only be made to the chapter on "Municipal Extravagance." Mr. Curtis quotes from Prof. Seligman of Columbia university, the eminent economist, as follows:

"The growth of democracy has brought with it new conceptions as to the duty and function of government. Expenditures which would have appalled our fathers seem to us reasonable and necessary. To hope to remove the problem of taxation by cutting down expenditures is vain. Economy we must, indeed, have, but not parsimony. The ideal of expenditure is not to spend little, but to spend well. Savages spend little or nothing, but are none the less savages. Democracy must spend much —will spend even more—but it should spend intelligently. With the growth of civilization, expenditures must increase."

In commenting on this paragraph Commissioner Curtis says:

"Prof. Seligman should not be understood as implying that a community is justified in spending all that it can 'spend intelligently,' or all that it can 'spend well,' or that the only requisites in public expenditures are to avoid paying too high a price for the things purchased, and stop the leak from grafting and other criminality. He doubtless believes, as most of us believe, that in addition to these observances there must be constantly exercised a sound and statesmanlike judgment as to what are, and what are not virtual necessities, from the viewpoint of public good, having reference always to the condition or potentiality of the purse from which the funds must be drawn—much the same sort of judgment that is essential to success in the conduct of important commercial and industrial enterprises; and moreover that this judgment must be exercised with a courage which will not flinch or quail before specious persuasion or popular clamor. This is easy to point out and to talk about, but in the light of past experience it seems very hard to secure."

The taxes collected in Wisconsin in the year 1908 for state, county, municipal, township, and school purposes, amounted in the aggregate to approximately $26,000,000. Every dollar of this money came in one form or another from the pockets of the people of the state. The corporation taxes, the peddlers' license money, the collections from saloon keepers in the form of licenses, were all paid by the people no less than the direct taxes for the support of the schools and for building roads and bridges.

Where there is collected from the people one dollar more than is needed for the economical administration of the laws and the

support of the state institutions injustice is inevitable. The state has no more right to take from its citizens money that is not actually needed for its purposes than a corporation or a private business enterprise has to practice extortion because it finds itself in a position to demand and enforce the payment of an unjust claim. The measure of the state's right to levy and collect taxes is the measure of its actual needs. This fact is fundamental.

Municipal luxury, the erection of public buildings for show purposes mainly, albeit an excuse may be framed that the buildings are needed for office purposes, is municipal extravagance. Luxurious display in municipalities and states had its birth in ancient times when warlike peoples brought back from their predatory excursions the spoils of their enemies and erected palaces, temples, public baths, and laid out magnificent gardens to proclaim the glory of their arms and to perpetuate their fame. Not only did the loot secured by conquest enter into the construction of the magnificent cities of olden times, but the sweat and blood of slaves cemented the bricks of which the walls were built. Ninevah, Babylon, Antioch, Rome, all grew to greatness through rapine, murder, extortion, injustice; all flourished for a time in luxury; all succumbed to stronger peoples in the end.

While it is true that a democracy must spend much, there is no need for a modern state or municipality to attempt to emulate even in a weak and puny way the luxury of the ancients. The demands of public health and convenience require the initial expenditure of large sums of money for the purposes of supplying pure water, a perfect drainage system, for cleaning the streets and for the disposal of garbage and refuse. The demands of the future require that the children of this generation shall be educated and fitted to assume the responsibilities of citizenship. The defectives and criminal classes must be cared for; courts must be provided to interpret and executive and administrative officers to enforce the laws. But when this is accomplished the purposes of a democratic government are served.

The fact should be kept in mind always that the people pay the bills and it is the people's purse, not the public treasury, that suffers when an unnecessary expense is incurred. State pride and municipal pride are commendable and worthy of encouragement, but they should never be permitted to serve as an excuse for an unnecessary tax levy. The hanging gardens of Babylon were the pride of the Babylonian kings and nobles, but the people who paid the bills had no occasion to contemplate them with pleasure or satisfaction.

PART THREE.

RAILWAY REGULATION

CHAPTER I.

The Early Period of Agitation.

The lawful right of the state to regulate common carriers, even to the point of fixing rates that may be charged for services rendered either in carrying passengers or freight, was early established in Wisconsin. There never has been a dispute on this point since the litigation resulting from the enactment of the historic "Potter law" in 1874 was decided in favor of that principle. (Attorney General vs. R. R. Comp., 35 Wis., 425.) The opinion of the Wisconsin Supreme Court in this case was written by the late Chief Justice Ryan, and it was affirmed by the Supreme Court of the United States.

At the same time, the right of the common carriers to exact from their patrons a rate of freight and passenger charges that will enable them to do business at a profit was also early established. In 1870 Chief Justice Dixon laid down this principle in an opinion deciding the case of Whiting vs. Sheboygan R. R., in which he said: "The power of the legislature to regulate the tolls and charges of such companies is in itself a limited one; if not in a constitutional sense, certainly in the sense of morality and justice. If there be not an express, there is certainly an implied, obligation and promise, on the part of the state, never to reduce the tolls and charges below a standard which will be reasonable, or which will afford a fair and adequate remuneration and return upon the amount of capital actually invested."

These two principles, which are fundamental, being established, the only opening for controversy with respect to the relations that should exist between the state and the common carriers has been one of policy. The question has been, how far ought the state to go in its efforts to regulate and supervise the business of the railroad corporations?

It is not the intention here to go into details concerning the arguments used by the supporters of the two sides of the proposition to regulate railroad rates. It is sufficient to say that the advo-

cates of radical legislation were manifestly firm believers in the total depravity of all corporations, while the conservatives were afraid that a political commission, were it to attempt to fix rates in advance, would so bungle its work that disaster would result to the interests of the carriers and patrons alike. The former class argued that the only safe way of avoiding extortion and unjust exactions in the form of freight and passenger rates was to place the rate making power in the hands of a commission made up of state officers; the latter maintained that the railroad traffic men were better equipped to fix rates, and the only office that could safely be entrusted to a commission was that of hearing complaints and reviewing rates. The radicals contended that it was for the interest of the common carriers to charge high rates, thereby increasing their profits; the conservatives replied that the interests of the railroad corporations were identical with those of their patrons, and that they would fix rates that would encourage business, thereby increasing their tonnage. All of these arguments were elaborated to the degree of exhaustion during the last period of agitation which extended from 1895 to 1902 in a preliminary skirmish, and from 1902 to 1905 in a pitched battle.

The two distinct, well defined periods of agitation against the railroad corporations in this state were separated by fully fifteen years of comparative quiet. The first period culminated in the enactment of the "Potter law," chapter 273, laws of 1874, and closed with the repeal of that statute two years later. The second period began with the election of A. R. Hall to the assembly in 1891, followed by the adoption, in 1902, by the then governor, R. M. La Follette, of the railroad regulation proposition fathered by A. R. Hall and the injection into that proposition of several radical features borrowed from Iowa and Texas. It ended in the passage of a modified, rationalized railroad commission bill in 1905.

The first period was characterized by a wave of popular prejudice against the railroad companies that swept over the state and carried everything before it. The election in 1873 was on the face of it a democratic victory. As a matter of fact it was the triumph of an element that had nothing in common with the regular, Jeffersonian democracy of that time. The men who were in the saddle in 1874 in this state would have been called "populists" a dozen years later. Some of them happened to hold prominent positions in the democratic party and they ingratiated themselves into the ranks of the grangers and captured that organization, making of it an adjunct to the democratic party. The victory at the polls was a populist victory, in fact, although the populist party had not yet been born.

During the second period the prejudice against the railroads was not so marked among the people of the state, notwithstanding the

strenuous efforts on the part of Gov. La Follette and his personal followers to light anew the fires of popular hate and rancor. There was no widespread demand on the part of the people at that time for radical legislation aimed at the railway corporations, and it was impossible in 1903 and 1905 to carry the legislature off its feet and repeat the legislative blunder of 1874.

One of the noteworthy incidents of the first period of anti-railroad agitation was a report prepared by a legislative committee in 1874 and printed in the Assembly Journal of that session. The committee was composed of members of both houses, Senators F. W. von Cotzhausen and A. E. Bleekman for the senate and Messrs. H. W. Sawyer, Michael Johnson, and D. L. Bancroft, for the assembly, and it was known as the "joint committee on tariffs and taxation." It was charged with the duty of investigating both the subject of railway rates and taxation—a somewhat comprehensive task for a legislative committee—with instructions to report by bill, the intention being to settle the railway rate controversy and perfect the general taxation system at the same time.

The committee did not agree on a unanimous report, as Senator von Cotzhausen was then, as always, in favor of the ad valorem taxation of railroad property and he could find few supporters at the time for his proposition to return to that system. But an agreement was reached on the subject of railroad rate regulation, the majority report on that head being written by Senator von Cotzhausen and signed by Assemblymen Sawyer (Judge H. W. Sawyer, of Hartford, Washington county), Michael Johnson of Dane county, and Senator Bleekman of Monroe county.

The peculiarity of this report is that it is sound doctrine today, although it was written during a period of violent anti-railway agitation and at a time when the railroad business in this state had barely begun to develop. It was written and signed by democrats of the old school and received the indorsement of certain other democrats of the same kind who happened to be members of the legislature in that so called "granger year." Although this report was not accepted as good law and sound doctrine at that time, thirty years later the principles laid down in that public document were indorsed by a Wisconsin legislature. The legislature of 1874 was determined to take over the rate making power absolutely, although its committee could see no virtue in the attempt to "remedy the evil by legally fixed, inflexible rules." The legislature of 1905 found a way to secure fair dealing and justice between shipper and carrier without attempting to establish a system of rates of an arbitrary character based solely upon weight, bulk, and distance hauled.

It should be remembered that in 1874 the traffic business had not been reduced to an exact science, nor has that end been attained

at this late day after thirty-five years' additional experience. The work is a complicated one, requiring the constant service of approximately 10,000 trained traffic officers to do the business for the 300 railroad organizations in this country. The best of these men acknowledge freely that the ideal system of freight rates, at the same time mathematically, ethically, and economically correct and unimpeachable, has yet to be framed. Where one or two of these requirements are met, there is default in the other. How much less likely, then, is a legislative committee to solve this complicated problem. The committee of 1874 did not feel competent to undertake the task. They were content to advise that steps be taken to prevent the exaction of rates and tolls that were demonstrably exorbitant and excessive. In view of the situation at the time the following excerpts from the report in question (Assembly Journal, 1874, page 423) is of interest:

"The legislature has full power and control over railroad companies in this state. Under section 1, article XI of our constitution, any general law or special act granting corporate powers may be altered or repealed at pleasure.

"All corporations, created or operating under grant from this state, are conclusively presumed to have accepted their charters and corporate franchises in view of this constitutional reservation. No plea of charter or contract rights with us can reasonably arise—as in Illinois and other states where a constitutional safeguard like ours (until of late) does not exist.

"The people of this commonwealth are therefore not at the mercy of the railroads—and consequently, with us there is no cause for alarm!

"It follows from the above that the power of the state over these corporations even extends to financial matters, and your committee entertains no doubt that it is within the province of the legislature to regulate tariffs—yea, that it is its duty to do so whenever the rates and tolls exacted are exorbitant and oppressive.

"The few weeks allowed your committee—while at the same time overburdened with other legislative duties—have not enabled them to give this subject of tariff as thorough an investigation as the complicated nature thereof evidently requires. The most intricate questions constantly arise, which seem almost to make it impossible, by law, to regulate these matters without doing injustice to either the one or the other side. That there is just cause to complain of oppressive rates in a number of instances no one doubts; but how to remedy the evil by legally fixed, inflexible rules, is as yet a mystery. Our sister states have been experimenting more or less the last years, yet we hardly hear of a perceptible change to the better.

"Then, again, it ought to be borne in mind that rates, though high, are not necessarily exorbitant. Whether exorbitant, unfair and oppressive, depends not upon their height; the true criterion is, whether the same are in just proportion to the actual and bona fide capital employed by the carrier in carrying on his business. On this capital—but not on watered stock—corporations are entitled, first of all, to a fair and even liberal return."

The committee then reported that it was not prepared to introduce a bill regulating tariffs, and continued:

"But we recommend that a board of commissioners be created, consisting of three to be appointed by the governor, with the consent and approval of the senate, whose duty it shall be to examine into the condition of all railroad, express and telegraph companies in the state, and their mode and manner of doing business; to collect information and statistics relating to tariffs and taxation in this and other states; to inform itself as to all laws regulating transportation and charges by carriers, and the decisions of the courts thereupon; and which board of commissioners shall be intrusted with such power and authority as in the performance of its various duties, and in furtherance of the ends and objects of its creation, may be necessary or from time to time be delegated by the legislature; so that, after full investigation, the next or future legislatures may understandingly act and adopt such rules, regulations and restrictions as, with proper regard to all interests, the public welfare may seem to require."

CHAPTER II.

THE POTTER BILL PASSED.

The legislature of 1874 provided for the appointment of a commission, but it was not such a commission as was recommended in the report of the joint committee. The committee, in fact, introduced a bill in each house, designed to carry into effect the recommendations incorporated in their report. These bills, No. 206S, and No. 466A, were duplicates. They were introduced by Senator von Cotzhausen in the upper and Judge Sawyer in the lower house. But these bills were sidetracked for the Potter bill.

No one appears to know where the Potter bill came from. R. L. D. Potter was a state senator from the Twenty-fifth district and lived at Wautoma, Waushara county. He was a lawyer and had no technical knowledge of the railroad business. It was freely stated at the time, and frequently has been reiterated since, that Senator Potter did not have the information at hand to enable him to frame a bill like the one he succeeded in having substituted for the committee bill.

At all events, he had the bill in his possession and he succeeded in having it substituted for assembly bill No. 466, the one introduced by Judge Sawyer, for the records show that the assembly bill of that number passed both houses and became a law. The legislative records at that time were not as carefully kept as they are now and the task of following a measure through the journals of the two houses is an extremely difficult one. The character of the law, chapter 273, laws of 1874, sufficiently explains the motives that prompted its enactment. In his "Historical Reminiscences and Reflections," printed in pamphlet form recently, Senator von Cotzhausen says, page 32:

"* * * But, under pressure of popular passion, the 'Potter bill,' which fixed a certain tariff for all classes of commodities and distances, met with favor in both houses and passed by an overwhelming vote. It was not discussed in its details by our committee at all, because all of us were lacking the practical knowledge of dealing with such a complicated subject. Who was the real author of the bill has always remained a profound secret. It was crowded upon the calendar at a rather late day of the session. It was named after the senator from the Twenty-fifth district, who by profession was a lawyer. It emanated, beyond doubt, from some one quite familiar with matters of transportation, but the man never came to the surface; no argument was ever presented in committee or on the floor in support of its detail enactments; the bill passed both houses almost blindly, because it aimed at the railroads."

The Potter law was a distance tariff measure, pure and simple. It fixed the classifications of freight and prescribed maximum rates that might be charged for transporting freight on a distance basis. For instance: Class D covered "grain in carload lots" and the maximum rate for that class was:

"* * * not exceeding 6 cents per 100 pounds for the first twenty-five miles, and not exceeding 4 cents per 100 pounds for the second twenty-five miles, and not exceeding 2 cents per 100 pounds for each additional twenty-five miles or fractional part thereof, unless said fractional part shall be less than thirteen miles, in which case the rate shall be one (1) cent for said fractional part, unless the whole distance be over 200 miles, when no greater rate than ½ cent per 100 pounds shall be received for each twenty-five miles over said first mentioned distance."

The law also provided for the appointment of a commission made up of three members who were to enforce its provisions. The railroad companies protested against its enforcement and appealed to the courts, but the right of the legislature to enact such a law was sustained both in the Supreme Court of the state and the United States and the rates fixed by the statute were put into force and effect.

The result of this experiment is well known. The business of the state was demoralized. The flame of passion and prejudice fanned to a white heat by fanatics and demagogues, began to cool. The people had asked for a reform and they had been given virtual ruin. All development was stopped because the railroads discontinued their work of extension. They could not do business under the conditions prescribed. So far as local roads were concerned, roads that depended for patronage almost entirely on business within the state, they faced bankruptcy and one, later known as the Lake Shore road, was sold by order of the court for failure to pay interest.

An incident occurred during this time, while the Potter law was in effect, in fact, which shows how important is an understanding between the industries of a state and the transportation lines. The facts relating to this incident may be found in the stenographic report of an offhand address delivered by former Gov. W. D. Hoard at a meeting of the Wisconsin Dairymen's Association held at Fond du Lac Feb. 11, 1903, and printed in the annual report of that body for the year 1903, pages 15 to 21 inclusive.

In his address Mr. Hoard was led into a reminiscent mood by recalling that one of the earliest meetings of the association was held in Fond du Lac, and he then called up from memory some of the struggles through which the association had passed in its youth. "Take these thirty-one years," he said. "Why, you can't think, unless you can remember, what a contrast there is today, with all this broad and pulsing movement of energy in the state of Wisconsin, over the situation as it stands now and as it stood when I came up here as secretary of this Wisconsin Dairymen's Association to hold its second meeting, thirty years ago."

Mr. Hoard then went on to tell how the association, at his request, permitted him to go to Chicago to try to interest railroad men in the development of the dairy industry in this state. He could see with a prophetic eye to what extent the dairy industry

could be developed if ways and means were provided for getting the product to market. Wisconsin cheesemakers were then paying a rate of 2 1-2 cents a pound on cheese from Wisconsin to New York, and the industry was languishing. He went to Chicago at his own expense and for two days he wandered from one railroad office to another without results until he succeeded in getting an interview with William Chandler, one of the officers of an important line. Continuing, he said:

"Well, I felt angry at the way the railroad people didn't and wouldn't see this thing, and I shot into that man's office and I said, 'Mr. Chandler, I come here representing 3,000,000 pounds of cheese that wants a quick and safe and cheap outlet to the east, and I want to know what you are going to do about it?' He wheeled and looked at me, and he says, 'Who are you?' I said, 'My name is W. D. Hoard, and I am secretary of the Wisconsin Dairymen's association, and they sent me here, and we have about 3,000,000 pounds of cheese in the state, and it wants to get out of the state. I want to know what you will do about it.' 'Well,' he says, 'we will do most anything you say if you have got that amount of cheese. What do you want?' I said, 'We pay 2½ cents a pound to get this cheese to New York. We are shipping it in poor cars and our folks don't know anything—any of us know but little, there is a vast amount of ignorance in the way, and we want you to come up there. There isn't one man in a thousand ever saw a refrigerator car. You have just commenced to use them. I want you to send up a car to Watertown to that dairy board of trade, and come up yourself and explain to those cheese people. Then I want you to make a rate of 1 cent a pound from anywhere in Wisconsin to New York.' He straightened back and he said, 'Is there anything else you want?' I said, 'Mr. Chandler, I can see with the eye of prophecy that if you will do that thing it will put millions of dollars into your pocket. All that is needed is to take this obstruction out of the channel, and the cow will take care of the rest. Let us have a chance to move this cheese out of Wisconsin.' 'Well,' Mr. Chandler says, 'I will be there.' Well, he sent this car up to Watertown and Chester Hazen and a number of other men, I got them all to come down there, and he explained to us what he would do and how we would stop the car—if one factory had only half a load he would stop the car. If we would ice the car he would see to the other operation of it. That was away back in 1875. He made the rate 1 cent a pound, and, do you know, the thing began to move and move."

CHAPTER III.

THE TWO SYSTEMS COMPARED.

Mr. Hoard's success marked the beginning of the system of concentration and commodity rates on cheese, butter and other dairy products, and it illustrates the difference in results when patrons deal directly with the transportation companies in an intelligent manner and when the attempt is made to fix rates by law and manage transportation companies through political bodies. The concentration and commodity system in Wisconsin had its birth in that first refrigerator car sent to Watertown and in the 1 cent rate to New York, together with the privilege of stopping the car en route from place to place along the line of road in Wisconsin to pick up a load.

The outcome of this experiment has been that today Wisconsin makes more cheese, more butter, and more condensed milk than any other one state in the union. This last year, 1909, it is estimated that the dairy products of Wisconsin amounted in the aggregate to $68,000,000 in value. The development of the dairy industry has restored fertility to the worn out farms of 1875. Farmers in Wisconsin were facing ruin when Mr. Hoard went to Chicago to secure a 1 cent rate on cheese to New York; they are now prosperous agriculturists engaged in diversified farming, and the money in Wisconsin banks is mostly farmers' money. And the commodity and concentration rates that contributed almost wholly to this development were the result of negotiation, not statute law.

At the same time, the development of the industry has operated to still further reduce rates. Nov. 16, 1909, the rates on cheese and butter from Wisconsin points to New York were as follows:

CHEESE.

	Carloads, per cwt.	Less than carloads, per cwt.
Richland Center	$ .72	$ .82
Calamine	.70	.80
Monroe	.69	.75
Kiel	.65	.67
Plymouth	.60	.62
Milwaukee	.50 any quantity.	

BUTTER.

	Carloads, per cwt.	Less than carloads, per cwt.
Richland Center	$ .92	$1.00
Calamine	.91½	.99
Monroe	.90	.95½
Kiel	.81	.84½
Plymouth	.75	.77
Milwaukee	.65 any quantity.	

But that is not all. Wisconsin can now land cheese on the docks at Liverpool, England, for less than 1 cent a pound. The rate from Richland Center, the highest, is about 92 cents per hundredweight; from Milwaukee, the lowest, is about 75 cents per hundredweight, or 3-4 of a cent a pound. And all this grew out of the negotiations between shippers and transportation companies and the farms of Wisconsin received the benefit.

The results of the first attempt in Wisconsin to regulate transportation companies by arbitrarily fixing their rates by law can be briefly set forth. In his first message to the legislature in 1896 Gov. Ludington took occasion to explain what the Potter law had accomplished in the way of reform. Gov. Harrison Ludington was a practical business man and he pictured conditions as he found them. He had been elected over Gov. Taylor, the reform granger governor, and he had reason to believe the legislature to which his message was sent to be read was disposd to hear and heed reason and common sense. Also, he was faced by a condition, not a theory, as President Cleveland remarked on a memorable occasion, and the condition required that remedial action be taken by the legislature. As a reason for asking that a remedy be applied the governor explained:

"The present condition of the railway interests of the state and the existing laws affecting that system are earnestly recommended to the consideration of the legislature. With the exception of the line from Portage to Stevens Point (a portion of the line to aid which the state received a large grant), which is now in progress of construction, no railways are being built within the limits of the state. While the central and eastern portions are well supplied with these facilities, the southwestern and northern portions are almost wholly without them. None of the companies owning or operating lines within the state have paid dividends to their stockholders for the last two years. The line from Milwaukee to Manitowoc and thence to Appleton has recently been sold under judicial proceedings growing out of a failure to pay interest on the first mortgage bonds, those citizens and municipal corporations of the state who have contributed largely to its construction losing their investment."

After referring to the Potter law and disclaiming any intention to question the right of the state to regulate railroad corporations within reasonable and proper limits, the right having been affirmed by the Supreme Court, Gov. Ludington continued:

"It can not be denied that the existing laws, passed in the exercise of this power, have either justly or unjustly impaired the credit of the state and of its individual citizens in the commercial and financial centers of the world. With immense resources undeveloped and a consequent need of capital from sources where it is in excess, the people find capital repelled by legislation which would seem to be so far in conflict with the rights of capital as to put the best interests of the people themselves at hazard."

The result of the conditions so clearly explained by Gov. Ludington was that the legislature repealed the Potter law and legislative made freight rates came to an end in Wisconsin for all time, al-

though an attempt to revive that system was again made in 1903 and 1905. In place of three commissioners provision was made for the election of one commissioner, whose duties were administrative in character. A Wisconsin classification and a maximum rate were established and laws were enacted, which were amended and strengthened from time to time, giving the commissioner supervisory powers over railway corporations. For twenty-nine years the system of railway regulation then established was continued in this state. The character of the supervision depended largely upon the ability, industry and moral strength of the commissioner elected by the people. It goes without saying that some of the commissioners were strong, while others were weak.

CHAPTER IV.

A. R. HALL BEGINS HIS CRUSADE.

The second period of agitation against the railroads in Wisconsin began with the election of A. R. Hall to the assembly from Dunn county in 1891. Mr. Hall had acquired experience in the Minnesota legislature, where he had served several terms, and he soon came to be acknowledged as a master parliamentarian. To his experience and ability he united patience and tenacity of a high order and these qualities equipped him admirably for the long and arduous contest which he waged for the anti-railroad cause, a contest that was preliminary to the pitched battle led by Robert M. La Follette when he came to the governorship in 1901.

Mr. Hall began his skirmish by accusing the railroad companies of evading a portion of their just taxes. As already has been explained in a previous chapter of this review, he demanded an examination into the sufficiency of the taxes paid by the railroad corporations in 1891, and again in 1893. During this time he did not ask that the state avail itself of the right to fix freight rates in advance and prescribe in what manner all the details of the business of the corporations should be managed, but he was progressing toward that point. As a matter of fact, even in his resolutions on the taxation question and in his reports as a committeeman to the legislature, he did comment on the revenues of railroad companies and attempt to show that the freight rates collected enabled them to earn large profits on the capital invested.

In the meantime other states, Iowa in particular, had been experimenting with rate regulation by adopting the only system possible where states establish rates through commissions appointed for that purpose—the distance tariff. Under this system the determining factors considered by the state's officers in fixing rates are (a) distance hauled; (b) weight; (c) bulk; (d) classification. The rates thus established are arbitrary and inflexible. The needs of an industry or community can not be considered. The whole problem is reduced to a simple mathematical computation. Trade can not be fostered; railroad companies can not take steps to develop tonnage along their lines by adopting a system of rates that will place all producers on an equal footing; the manufacturers and farmers near the markets must be permitted to enjoy their geographical advantage over those living at a distance because a distance tariff, while it meets the demand for mathematical accuracy, admits of no adjustment that may be required by economic or industrial conditions.

The Potter law of 1874 was a distance tariff law of the most crude and illogical character and it did not take long to demonstrate that the transportation business of the state could not be

conducted under its provisions to the satisfaction of either the railroads or their patrons. Every indication pointed to the fact that, if that law were to be continued in force, the enormous natural resources of the state would lie idle for all time simply because they could not be developed under distance tariff conditions.

It is true that a state can not prescribe rates to be charged on interstate traffic and that a large percentage of the transportation business of a state like Wisconsin is interstate business. It has been estimated that no more than 20 per cent of the freight carried in this state is subject to state regulation. But, where a state draws a line at its borders and says that all business transacted inside that line must submit to certain arbitrary and inelastic rules and rates, the carriers are in a measure forced to recognize that line, as they did in the cases of Iowa and Texas, making their interstate rates to the line and adding local rates for the state.

In 1905 A. R. Hall introduced in the legislature his first railroad commission bill, or bills, for there were two of them, No. 146A, and No. 148A. The first was "A bill to establish a board of railroad commissioners, prescribe their qualifications, fix their salaries, and for the appointment of a secretary of such board and to fix his salary." The second was "A bill to regulate railway corporations and other common carriers in this state, and to define the powers and duties of the board of railroad commissioners in relation to the same, and to prevent and punish extortion and unjust discrimination in the rates charged for the transportation of passengers and freight on railroads in this state, and to prescribe the mode of procedure and rules of evidence in relation thereto, and to repeal all laws in force in direct conflict with this act." These bills were both introduced in the assembly by Mr. Hall on Jan. 29, 1895. (Page 106 Assembly Journal.)

It was in connection with these bills that Mr. Hall played a trick on the opposition that took them by surprise. While the bills were pending he prepared circular letters explaining the purpose of the bills and mailed them to every township and election precinct in the state asking that a referendum vote be taken at the annual spring election on the matter. Blanks were furnished for recording the vote and tickets for and against the measures were also supplied.

All this work was done secretly, the only man taken into his confidence at first being Assemblyman James O. Davidson, now governor. These two gentlemen worked behind locked doors for several nights until they were worn out with fatigue, and they then took into their counsel as an assistant a committee clerk in whose discretion Mr. Davidson had confidence, and the work of folding and addressing the circulars, blanks and tickets was then completed. The time selected for mailing the circulars was well chosen, for those who received them were given an opportunity to present them

to the voters on town meeting day, while the men who would naturally be opposed to the bills were not given time to organize their forces to vote against the indorsement.

In the meantime the opposition had been busy circulating petitions against the measures, and their labors had been successful. Shortly after the introduction of the bills word was sent out that Mr. Hall was endeavoring to secure the passage of a rate regulation law, and the business men of the state became active. On April 9, the day the two bills came up for indefinite postponement on report of the committee on railroads, to which committee they had been referred, there were on file in the assembly 82 petitions for and 338 against the measures.

But the referendum vote had also come in on that day, reports having been received from 330 polling places at which 30,853 votes had been cast in favor of the bills and 587 against them. Of course, where a vote is taken in this informal, voluntary manner, the reports were not complete in all details. In some cases only the affirmative vote was given in the report; in others the statement was made that the vote was "unanimous;" the total number of votes cast being omitted. The records of these memorials are printed on the Assembly Journal, pages 905 to 913 inclusive.

As has been said, the railroad committee of the assembly reported the Hall bills for indefinite postponement. This report was made on March 28 before the referendum vote had been taken (page 780, Assembly Journal), and action had been deferred from time to time at Mr. Hall's request, or through his skillful management, until the returns should come in from the election precincts. The final vote was taken on April 9 and resulted in 61 members favoring indefinite postponement and 18 opposing that action. Both bills suffered the same fate by the same vote (page 938, Assembly Journal), and Mr. Hall's efforts along that line were suspended for four years, or until 1899.

It is only fair to say that the proposed measures were not in any respect like the Potter law. No attempt was made to fix freight rates by statute, that business being left largely to the commission should one be appointed. There were some provisions in the bill that were unobjectionable and salutary and which were later incorporated in substance, if not in form, into the law enacted in 1905. The principal objection to the bills was that they were crudely drawn; that they would unnecessarily and unwisely have forced the abandonment of policies and practices that the business interests of the state required and upon which their continued prosperity largely depended; and that they contained provisions that, were they to be put in force, would have hampered the corporations in the operation of their transportation lines without securing to the patrons of the roads any corresponding benefit.

Justice to Mr. Hall's memory, however, demands that the fact

be recorded that no suggestion ever came from him that the administration of the affairs of the railroads be taken entirely out of the hands of the corporation officers and placed in those of a political commission. His railroad regulation bills were crude and impossible of successful operation, it is true, but they were far superior to—and would have been less harmful in operation than—the Potter law, the Texas law, the Iowa law, or the radical measure proposed for enactment in 1903 at the instance of Robert M. La Follette.

The principal reason for the defeat of the Hall bills may be found in the fact that Wisconsin legislators and business men had not forgotten the Potter law and its disastrous consequences. Objectionable practices had crept into the transportation business in some cases and there were many who realized that certain corrections should be made in the methods of doing business. But the one fact that stood out sun clear, about which there could be no mistake, was that the one attempt to regulate freight rates by law in Wisconsin had been a colossal blunder. It was a lively appreciation of this fact more than any other thing that determined the fate of the Hall bills in 1895.

CHAPTER V.

THE HALL BILLS IN 1899 AND 1901.

Feb. 17, 1899, A. R. Hall, still in the assembly, introduced two bills, No. 388A and No. 389A, which were almost identical in form and substance with the two defeated in 1895. In the meantime a lively anti-railroad campaign had been carried on by the partisans of R. M. La Follette and under the leadership of that gentleman, who had been a candidate for the republican gubernatorial nominaiton in 1896 and 1898 on an anti-corporation platform. It will be remembered that Mr. La Follette began his "anti" campaign shortly after his first defeat for the nomination. He took to the lecture platform and when the time came to hold county fairs he "followed the ponies" about the state preaching the doctrine of the total depravity of the corporations, great and small, who were supposed to be "grinding the faces of the poor."

During the year 1897 and well into the summer of 1898 the one text selected by Mr. La Follette upon which to base his numerous political sermons was this one of corporation depravity, and the railroads were held up as shining examples of the iniquity of corporate greed. It was not until fully eighteen months after the opening of this perpetual campaign that the primary election idea was injected into the proceedings, and even then the new issue was urged merely as a means to an end, a measure by which "the people" could secure control of the offices and enforce their will. That a campaigner of Mr. La Follette's force, energy and carefully prepared eloquence had some influence on popular sentiment goes without saying. There were more men in the assembly who were prepared to vote for almost any kind of a railroad regulation bill in 1899 than there had been in 1895, and there were still more who, out of respect for public opinion as they understood it, were not disposed to vote either way and dodged.

An examination of the proposed laws showed that the same objections urged against them in 1895 still held good. There was the best of reasons for believing that were these bills to pass and become laws the splendid system of commodity and concentration rates, under which the industries of the state had been built up, would be abolished. While the rates were not specifically mentioned, all discriminations of every character were forbidden and the concentration and commodity rates are, in fact, based upon discriminations. There were many wholesome provisions in the bills, but there were other objections besides the one mentioned that made it a dangerous experiment to place them upon the statute books and they were again defeated.

On April 12 the railroad committee, to whom the two bills had been referred, returned them to the assembly without recommenda-

tion, and on April 25, after action had been postponed twice at Mr. Hall's request, the measures were refused engrossment and third reading. There was no roll call on bill No. 389, but on its companion measure, No. 388, the vote recorded was, for the bill, 26; against it, 40; absent or not voting, 34. The question was on passing the bill to engrossment and third reading, and the record of the vote follows:

Yeas—Messrs. Anderson, Baldock, Barber, Benson, Dahl, Dodge, Frost, Hall, Harvey, Holcomb, Holland, Humphrey, Kempley, McDonald, McGreer, Moore, Morgan, Morse, Mosher, Olson, Porter, Rasmussen, Ripley, Ryan J., Sneddon and Sturdevant—26.

Nays—Messrs. Barlow, Buttles, Cashin, Catlin, Daggett, Dengel, Dresser, Eline, Evans, Fogo, Galaway, Germer, Gilmore, Grube, Hartung, Hurlbut, Jensen, Johnston, Keene, Killilea, Lange, Logan, Orton, Overbeck, Parker, Polley, Rechlicz, Roettinger, Rowell, Rusk, Ryan M. W., Schoenbaum, True, Wagner, Werheim, Williams, Willot, Willy, Wylie, and Mr. Speaker—40.

Absent or not voting—Messrs. Adams, Becker, Bryant, Buffington, Clough, Elba, Farr, Feige, Flaherty, Gagnon, Gawin, Grootematt, Guth, Hoehle, Hunt, Ives, Johnson, Kessler, Loth, McGrath, McLeod, Middleton, Minch, Richardson, Sarau, Slade, Soltwedel, Steiger, Thiesenhusen, Thomas, Vandercook, Wills, Wheeler, and Zinn—34.

Jan. 24, 1901, A. R. Hall for the third time introduced a bill to regulate the railroads. This time he consolidated his two measures into one, but that was practically the only change made. The title of the measure ran as follows:

"A bill to regulate railway corporations and other common carriers, in this state, to create a board of railway commissioners and define its powers and duties, to prevent and punish excessive rates and unjust discriminations in the rates charged for the transportation of passengers and freights, to prescribe the modes of procedure and rules of evidence in relation thereto, and to repeal all laws in conflict with the provisions of this act."

The time that elapsed between the introduction of this bill by Mr. Hall on Jan. 24 and its defeat by indefinite postponement April 10 saw the end of the preliminary skirmish and the beginning of the pitched battle for railway rate regulation in Wisconsin. Notwithstanding his early antagonism to the railroad corporations at the time he was a defeated candidate for the republican gubernatorial nomination, Gov. La Follette had, from the time of the third announcement of his candidacy in the spring of 1900 down to the defeat of his primary election bill on April 11, 1901, maintained a not unfriendly attitude toward the railroads. During the early weeks of the session, in fact, he had appeared in a distinctly friendly attitude toward those corporations and it is certain that Mr. Hall got little encouragement from the executive chamber while laboring to secure support for his bill.

But, as the weeks passed and the certainty of securing the passage of the primary election measure began to fade, Gov. La Follette's friendship for the railroads cooled. The Hall railroad com-

mission bill came up too late to get the benefit of this changed attitude—as did the railway taxation bills—and to this fact may be attributed the strength of the vote against it in the assembly when it came up for indefinite postponement on April 10, one day before the primary bill was killed in the senate. When the vote was taken there were 74 members of the assembly who were willing to go on record as being opposed to the bill and but 24 who favored it—2 less than the number who voted for its passage in 1899. And this, too, in a body that was acknowledged to be under the control of the governor. No one has ever disputed the truth of the statement that the assembly was organized to support the administration in 1901. No explanation can be offered for the overwhelming defeat of the Hall railroad regulation bill in that body except that Gov. La Follette permitted, if he did not advise, his followers to vote against it until it was too late to change and pass it. Among the names of members who voted for indefinite postponement will be found a fair proportion of men who supported administration measures in season and out of season, men who were open and acknowledged "Bobites," as the partisans of the governor came to be called later.

The vote on the Hall bill, No. 78A, is recorded on page 833 of the Assembly Journal for 1901 as follows, the question being on the indefinite postponement of the measure:

Yeas—Ainsworth, Andrew, Barker, Barlow, Benson, Burdeau, Cady, Clark, Cleopas, Coapman, Collins, Duerrwaechter, Eager, Ela, Eline, Erickson, Esau, Evans David J., Evans Evan W., Fesenfeld, Flaherty, Gagnon, Galaway, Gawin, Hanson, Hartung, Hodgins, Holland, Jensen, Johnston, Jones, Karel, Katz, Keene, Kern, Krumrey, Lane, McCabe, McComb, McCormick, McGill, McMillan, Manuel, Maloney, Miller E. A., Miller Herman, Moldenhauer, Norton, Orton, Overbeck, Park, Pomrening, Price, Rasmussen, Rogers, Root, Rossman, Sarau, Schellenberg, Silkworth, Slade, Smalley, Smith, Soltwedel, Steiger, Thiessenhusen, Thomas, Valentine, Whitson, Williams E. A., Willott, Young, Zinn, and Mr. Speaker—74.

Nays—Anderson, Babb, Brunson, Cook, Dahl, Dodge, Fenelon, Frost, Gilman, Hagerty, Hall, Henry, Johnson F., Johnson H., Lenroot, Middleton, Owen, Rankl, Roe, Spratt, Stevens, Sturdevant, Swenholt, and Williams J. C.—24.

Absent or not voting—Messrs. Dow and Minor—2.

This ended Mr. Hall's connection with railroad legislation in Wisconsin, as his last term of service in the Wisconsin assembly closed with that biennial period. On the whole his record was a creditable one, notwithstanding the fact that he earned the reputation of being an enemy of the railroads. He was a "progressive" in fact as well as in name and he consistently supported all reform legislation from whatever source it emanated. He aided in the passage in the bills by which the temporary and permanent tax commissions were organized; he was a friend of the Whitehead bills by which a new system of taxation was prescribed for the tele-

graph, express, and sleeping car companies; his support was given to the corrupt practices act in 1897, to the insurance taxation measure introduced by Judge Orton in 1899, and to many other wholesome and salutary laws. And he has been given full credit for his labors by the people of Wisconsin whom he served.

This ended also the preliminary skirmish for railroad legislation designed to improve and modernize the Wisconsin statutes relating to that subject. From this time until the present law was enacted in 1905, the fight of the administration forces, led by Governor La Follette, was of a different character.

CHAPTER VI.

LA FOLLETTE TAKES UP THE FIGHT.

In the section of this review devoted to the history of the primary election movement the political developments at Madison during the legislative session of 1901 are explained at considerable length. It is unnecessary here to repeat the details of the factional dispute which made that period memorable, but it is important that no opening be left for misunderstanding with respect to certain facts relating to the declaration of war on the railroad corporations that accompanied, although it did not cause, the disruption of the republican party in Wisconsin.

In his first biennial message to the legislature in January, 1901, Gov. La Follette had nothing to say on the subject of railroad rate regulation. As has been shown, Mr. Hall had, in 1895 and 1899, introduced bills designed, in a measure, to control freight rates, and the governor had himself conducted a frantic anti-corporation campaign from the time he was defeated for the gubernatorial nomination in 1896 up to a period shortly antedating his third announcement as a candidate for that office. Following his message and during the entire time the Hall railroad regulation bill was before the assembly in 1901 there is not one line in the records to indicate that the governor raised a finger to aid Mr. Hall. On the contrary, his silence and the known antagonism to the measure of many of his most subservient followers all indicated that he was opposed to the bill.

But the failure of his attempt to dictate to the legislature in other matters, mainly the primary election bill, angered Gov. La Follette beyond all reason, and, to use a homely metaphor, "he began to rock the boat." He sent in his veto of the Hagemeister primary bill and his celebrated "dog tax veto." He tongue lashed the members of the legislature who had refused to do his bidding and started in to make good his threat to "drive from public life in this state every man who opposed him." Naturally the railroads, conservative by force of circumstances and the nature of their business, were placed under the ban and marked for punishment of an exemplary character.

Shortly after the adjournment of the legislature in the spring of 1901 Gov. La Follette's health became impaired and in the late summer he was forced to abandon his official duties entirely. For weeks and months he was invisible, his physician prescribing absolute rest and a strict diet. There was nothing doing at the executive chamber during the summer and early autumn months. Lieut. Gov. Jesse Stone was not called in to perform the duties that, under the constitution, devolved upon him in the event of the total disability of the executive, but the governor was invisible to

all but his physician and family just the same. The private secretary kept the executive office open during the interim and met all inquiries with evasive replies.

Meanwhile there was a cessation of hostilities. The leading newspapers opposed to Gov. La Follette's policies and methods studiously avoided criticising him out of fear that they would be accused of attacking a sick man, and little was done in either camp except to prepare for the battle promised for the following year. The Wisconsin Republican league organized and began collecting names for a partial poll list of voters, but this work was all of a preliminary character.

The campaign of 1902 was an anti-corporation campaign, with all the term implies, on the part of the state administration faction. The main issue, it is true, was the governor's primary election proposition, but, having failed to secure the passage of that measure at the last session of the legislature, the "anti" campaign was organized and conducted with all the energy that characterized the earlier La Follette crusades against the railroads and other alleged oppressors of the people. But even in those circumstances there was less said about rate regulation than there was about the taxation of corporations. The governor, who led the forces in person, devoted a greater part of his time and talents to the discussion of what he considered the most popular issues. It has been his custom always to center his attention upon one or two propositions which he can present in the most effective manner, leaving other matters, that may be of equal importance, for use in subsequent campaigns.

And this is what he did in 1902. He wisely refused to "scatter" and worked away manfully at the primary and taxation issues, as he saw them, leaving the subject of rate regulation to be used in the next campaign. But he did not neglect it entirely. There was enough about the right of the state to control corporations in his speeches and literature to indicate to the man who was acquainted with his political methods that the railroad rate question was in the incubator.

Gov. La Follette was renominated and re-elected, and his railroad regulation scheme came out of its shell. It was not a new idea, being copied mainly from the Iowa law, but there were some features of the bill he subsequently advocated that were peculiarly offensive to Wisconsin business men and manufacturers.

The governor opened the pitched battle for railroad regulation in his message read in person to the legislature on Jan. 15, 1903. In that message he took the ground that it was not only the right but the duty of the legislature to provide for the creation of a commission armed with authority to fix freight and passenger rates "in advance." He would not be satisfied with a board that could only review rates and pass upon their reasonableness. He wanted a body that could sit down in the capitol building and draw up a

schedule of freight tariffs for every road doing business in Wisconsin and force the adoption of that schedule. The message is a long one, covering, with its statistical supplement, 120 pages of the assembly journal, and it was looked upon as a distinct declaration of war against the common carriers.

The next move in the war game was the introduction by the assembly committee on railroads of bill No. 623A on March 6, 1903 (page 473, Assembly Journal). This committee was appointed by Irvine L. Lenroot, the speaker, and no one doubted that they would report just such a bill as the governor wanted. No one ever accused Gov. La Follette of drafting the measure. It was an open secret at Madison at that time that, however able he might be as a propagandist, however eloquently he might express his opinions about measures and men, however extensive might be his references to statistics in support of his propositions, he lacked the ability to frame legislative measures that would be satisfactory even to himself. But he had in his councils men who were expert in the business of drawing bills, and they put his ideas into form. The committee that reported the rate regulation bill was made up as follows: C. W. Gilman, chairman; J. A. Frear, W. S. Braddock, R. Ainsworth, R. E. Tarrell, George P. Stevens, George E. Beedle, O. G. Kinney, W. S. Irvine, F. M. Reed, and Lewis Benson, the latter being a democrat.

While this bill did not provide, as did the Potter law in 1874, for a statutory schedule of freight rates, it went even farther than the early law in the matter of interference with railroad companies in the transaction of their business and it provided for a distance tariff as illogical and destructive in its tendencies as that of the Potter law. There are thousands of people in this state who never knew to what extent this revolutionary measure of Gov. La Follette's presumed to go. They read the accounts of the controversy in the newspapers and they took sides for or against the governor's proposition on the strength of the presentation of arguments, but the bald, naked proposition to take the management of the railroads entirely out of the hands of the officers elected by the stockholders and entrust it to a board of commissioners appointed by the governor of the state was a point that did not find lodgment in the public mind as clearly as it should have done. That this is not an overstatement of the purposes of the measure is shown by the following quotations from the bill itself:

"Powers and duties. Section 8. The board may, from time to time, carefully examine into and inspect the condition of each railroad, its equipment and the manner of its conduct and management with regard to the public safety and convenience; make annual examination of its bridges, and, if found by it to be unsafe, it shall immediately notify the railroad company whose duty it is to put the same in repair; such repairs shall be made by said company within ten days after receiving such notice. If any railroad fails to perform this duty, the board shall forbid and prevent it from running trains over such bridges while

unsafe. It shall inspect all railroad time tables and see that as close connections as practicable are made at the several junction points within the state, between trains of connecting lines or branches. When, in the judgment of the board, any railroad fails in any respect to comply with the terms of its charter, articles of incorporation, or the laws of the state, *or when, in its judgment, any repairs are necessary upon its road, or any additions to its rolling stock or additions to or change in its stations or station houses, or change in its rate of fare for transportation of freight or passengers, OR CHANGE IN THE MODE OF OPERATING ITS ROAD OR CONDUCTING ITS BUSINESS is reasonable or EXPEDIENT*, in order to promote the security, convenience or accommodation of the public, the board shall make such order, as the facts found by it may warrant, and serve a copy on such railroad, in the manner provided for the service of summons in a civil action in courts of record, which order shall be signed by the secretary or any member of said board. Such order shall specify what shall be done by said railroad, and if there shall be a neglect or refusal to comply with such order, the board may, in its discretion, cause suit or proceedings to be instituted to enforce its orders as provided in this act."

One more quotation from the bill is necessary in order that a thorough understanding may be had of its revolutionary character. Under the rate making system then in force, and which has not since been changed, the railroads had promulgated schedules designed to foster and build up the manufacturing and agricultural industries of the state. They had adopted what was known as the "zone system," by which a number of cities and manufacturing points were grouped together and all given the same rate to the markets or distributing points, regardless of distance. This was done in order that industries might be distributed along the lines of the several railroads wherever they could manufacture to advantage. Also, there had been established the splendid system of concentration and commodity rates described in a previous chapter under which the agricultural interests of the state had been rescued from threatening bankruptcy in 1875 and raised to unexampled prosperity in 1903. All this Gov. La Follette proposed to change, for another section of his proposed law read as follows:

"Commissioners' Schedules of Rates—Effects. Section 24. The schedules of maximum rates of charges for the transportation of freight and cars, together with the classification of freights now in effect, shall remain in force until changed by the board according to law, and, in all actions brought against railroads, wherein there are involved charges for the transportation of any freight or cars, or any unjust discrimination in relation thereto, shall be taken as prima facie evidence in all courts that the rates fixed therein are reasonable and just maximum rates of charges. The board shall from time to time, and as often as circumstances may require, change and revise such schedules, but the rates fixed shall not be higher than established by law. The board shall give notice of its intention to revise or change such schedules by mailing a copy thereof to the railroad to be affected thereby and by publishing a notice thereof in such newspaper as the board may direct for two successive weeks, the last publication of such notice to be at least ten days before the time fixed for considering the matter, and such notice shall contain, in general terms, a statement of the matters which the board

proposes to consider, and the date when and the place where the matter will be taken up. * * *"

The remainder of the section provides for publishing and serving copies of decisions of the board establishing new schedules of rates.

But this was not all. In the substitute bill introduced by the same committee April 24 (Page 900, Assembly Journal), the section here quoted was changed by requiring the board to make an entirely new schedule of rates at the start, or "as soon as practicable," the purpose being to abolish at the earliest possible moment the schedules of rates made by the railroad traffic men and substitute in their places other schedules of distance tariff rates made by the members of the board. The language of the substitute bill is unequivocal and definite on this point, for it says:

"Section 24. The board shall prepare, as soon as practicable, schedules of reasonable maximum rates for the transportation of passengers and property between the various stations on the lines of the several railroads within the state and the several terminal and junction stations situated therein; a separate schedule to be prepared for the line or lines of railroad within the state operated by each individual railroad, and also similar schedules of MILEAGE RATES for application to traffic between all other stations on the several lines within the state; and shall also prepare a uniform classification of articles of freight for use in connection with said schedules."

This provision takes the place of the one in the section previously quoted from the original bill establishing the existing schedules as maximum rates until changed by the board, the remainder of the section being unchanged in the substitute.

After providing for the establishment of a distance tariff, or "schedules of mileage rates," which is the same thing, the substitute bill provided in Section 31 that commodity rates might be permitted, but no provision was made for zone rates, or concentration rates, without which the commodity rate would be of little value to the shippers. A commodity distance tariff is a distance tariff, and geographical location would be a more important item under such a system than it is now.

CHAPTER VII.

Governor vs. Manufacturers and Shippers.

The substitute for assembly bill No. 623 was reported by the committee on railroads April 24, 1903. Four days later Gov. La Follette transmitted to the legislature a special message of 108 pages, with a statistical supplement of seventy-five pages giving comparisons of rates in Wisconsin, Iowa, and Illinois prepared by the commissioner of labor and industrial statistics. It was the governor's purpose to show that, under the distance tariff of Iowa and the maximum rates established by the Illinois railroad commission, conditions were much more favorable to shippers than they were in Wisconsin.

April 29, the day following the receipt of the governor's message by the legislature, the largest gathering of business men ever held in Madison for consultation on a subject of legislation pending at the time was convened in that city for the purpose of protesting against the passage of the measure. The written protest was signed by 164 firms, manufacturing corporations, and individuals, one of whom represented an association numbering 165 manufacturers, merchants, and shippers doing business at Sheboygan.

The governor's message was an attempted justification of the distance tariff system of railroad rates. The word "attempted" is used because no such justification is possible in sound reason and logic. The business of a country can not be transacted solely by mathematical rules. Industrial science is not merely an appeal to mathematical formulas as a method of disposing of all probelms as they arise. If that were the case, any graduate of a ward school would be as competent to make freight rates as the most experienced traffic man, for all he would need to do would be to apply the rules of addition, substraction, and multiplication and the most complicated rate question would be answered.

Furthermore, it was shown to the satisfaction of a majority of the members of the legislature that the figures contained in the tables accompanying both the biennial and special message were unreliable and misleading. The statistician had taken the published *distance tariffs* of the railroads of Wisconsin, under which traffic was seldom moved, and compared them with the regular working tariffs of other states which controlled all the business transacted by the common carriers in those states. In other words, he had selected the highest rates he could find in Wisconsin and compared them with the lowest rates in other states. The Wisconsin distance tariffs governed but a small per cent of traffic—about 2 per cent, in fact—while the Iowa rates given were the regular tariffs under which practically all of the tonnage in the state was carried.

Another important feature of the governor's tables was that they were full of errors, whether made by the man who prepared the tables or by the printer does not appear. Burton Hanson, general solicitor for the Chicago, Milwaukee and St. Paul road, made the assertion before the railroad committee that one table accompanying Gov. La Follette's biennial message contained "637 distinct errors, nearly all of which are against the railroad companies."

But the important point about all of the governor's arguments and comparative statistics was that he had used the distance tariffs in Wisconsin, when he should have taken the commodity and merchandise tariffs under which the freight business of the state was transacted. As the Iowa rates used in the tables in making comparisons were the regular rates controlling traffic in that state, the lowest rates in all cases, the comparisons were clearly and demonstrably unfair, and the demonstration was made to the satisfaction of the members of the legislature. This fact should be kept in mind, for it explains why Gov. La Follette failed to secure the adoption of the Iowa system of railroad rate regulation in Wisconsin in 1903, and it explains also why he failed again in 1905, although he used the same figures and the same methods in his second attempt.

April 29, the day following the delivery of the special message to the legislature and one day prior to the date set for final action on the bill, the meeting of business men and shippers already mentioned was held at Madison. This meeting was called for consultation and to formulate a protest against the passage of the pending measure. The call for co-operation in resisting the threatened change was signed by sixty-five manufacturing firms and corporations doing business at Madison, Wausau, Racine, Kenosha, Menasha, Green Bay, and other places. After talking the matter over the meeting determined to draw up a formal protest against the passage of the bill and lay their views before the members of the legislature. The protest was drawn and printed, and a copy furnished to each member by placing it upon his desk.

In their protest the shippers gave the reasons why they were opposed to the enactment of a law like the one proposed. They explained that, after many years of labor and concerted effort, the producers of Wisconsin had succeeded in bringing about the adoption by the railroads of "such commodity, group, and concentration rates as are best fitted to develop their business interests and promote the growth of the state." They took upon themselves the responsibility for the establishment of the system of rates then in force, which were the result of years of conference, experiment, and adjustment, in which the shippers had taken the initiative—not the railroads. The system was, therefor, a logical growth designed to meet the demands of the commerce of the state, and it

conformed closely to the interstate system of rates. This had been accomplished, they said, "with the least injury to any of the interests of the state; indeed, it has resulted to the general benefit of all. In dependence upon these rates large investments have been made, great manufacturing and shipping industries have been built up, and plans perfected which will materially aid in the future growth of the state." They continued:

"We believe that any attempt to disturb this system of transportation rates will unsettle the business affairs of the state, endanger investments, and interfere with the development of our industries."

The protest which was of considerable length, also explained the probable effect of such a law, upon the commodity rates, notwithstanding the section that was supposed to permit of such rates. To the legislators they said that the section that professed to grant this privilege expressly forbade it, as it absolutely prohibited the granting of zone, or group, rates, and established a distance tariff system. A distance tariff is a distance tariff for commodities as well as for other classifications, and it was a distance tariff they were protesting against.

This issue was met by Gov. La Follette and his followers in the legislature with the statement that these men were in Madison at the mandate of the railroad officials. They were either receiving unjust discriminations, it was argued, or were afraid they would be subjected to adverse discriminations if they did not come to the aid of the transportation corporations in their hour of need. Specific cases were even cited—the names of the persons or firms interested being concealed, it was explained, because of the injury such a disclosure would work to them—where threats had been made, it was alleged, of unjust discriminations should the supposed victim presume to act contrary to the wishes of the railroad officers.

But this argument would not stand alone while it was being answered. Had the manufacturers and shippers of the state been so entirely at the mercy of the railroad companies that they feared ruin at their hands, they would willingly have permitted a law to be enacted placing it beyond the power of those corporations to injure them. In that case they would gladly have flocked to Madison in support of the bill in as great, if not greater, numbers than they did to protest against the enactment of such a law.

The plain fact is that the business industries of the state had been built up under the system of freight rates then in force. They depended for their very existence on the zone, commodity and concentration rates. Millions of dollars had been invested in manufacturing enterprises under conditions that were now threatened with a revolutionary change and the certainty of loss was unquestionable should the proposed changes be made. Manufacturers who had established themselves at favorable points near mar-

kets and who shipped their raw materials long distances had no way of knowing what the proposed distance tariff system would do to their business except that it would necessarily increase the cost of their product by increasing the cost of their raw materials. Other producers, who were long distances from markets, were in a quandary as to how they would be able to deliver their products under a distance tariff in competition with rivals who were more favorably situated with respect to geographical location. It was a veritable industrial revolution that was impending, and an industrial revolution, also, that spelled removal or ruin to some of the most important manufacturing establishments in the state.

CHAPTER VIII.

The Bill Defeated.

But the danger was averted by the defeat of the bill. The protest of the merchants and manufacturers was signed and issued April 29. Bill No. 623A came up as the special order at 10 o'clock a. m., April 30 (page 1002, Assembly Journal). A motion was made by Chairman Gilman of the railroad committee that the assembly go into committee of the whole to consider the bill and substitute, the intention being to give an opportunity for oratory, but the motion was defeated by a vote of yeas 43, nays 50, absent or not voting 7.

Torger G. Thompson, member from Dane county, then moved an amendment in the form of a substitute for section 1 of the bill, in which amendment an elective commission was provided for in place of the one to be appointed by the governor. This motion was defeated (page 1004, A. J.) by a vote of yeas 10, nays 84 absent or not voting 6. The assembly then adjourned until 2 o'clock p. m.

The entire afternoon session was taken up with the consideration of this measure (page 1005 A. J.), Speaker Lenroot having called Assemblyman Smalley to the chair, as he desired to take an active part in the debate. It is a significant fact that, although there was no question about the position Gov. La Follette had sustained from the first to this measure, and notwithstanding his two messages on the subject, when it came up for final action only the members who followed the governor without question, as the light brigade charged at Balaklava, favored its enactment into law. There were many administration followers in the assembly who were willing to go almost any length to carry out his general political program. They believed that "nothing succeeds like success." They looked upon Gov. La Follette as a star to which they had hitched their wagons. But there is a limit beyond which even an aspiring politician can not go at times and that limit was reached when practically the entire business element of the state entered into a protest against the bill urged by Gov. La Follette for passage.

A vote was not taken at the afternoon session as the administration forces, led by Speaker Lenroot, were determined to leave no stone unturned to put the measure through, or at least to make a good showing. They were playing for a record. They knew, or had reason to believe, their bill was doomed, but it was the policy of Gov. La Follette always to have an issue in reserve, and this railway regulation issue would serve his purpose if it were defeated, as it was in the end. The burden of the argument in the speeches for the administration side of the debate was the same as that of

the governor's message—unjust discrimination which was alleged to operate to prevent the producers of Wisconsin from reaping as much profit from their business as did their competitors in other states, particularly in Iowa. The opposition took their stand upon the protest issued by the manufacturers and merchants, and maintained that the bill, should it become a law, would prove to be destructive, and not constructive, in its character.

A vote on the measure was reached at the evening session of the same day, it having occupied the attention of the assembly since 10 o'clock in the forenoon. The first vote was on a referendum amendment offered by Assemblyman Le Roy of Marinette, which was defeated by an affirmative vote of 37 to 56 negatives. The next question was on the adoption of the assembly railroad committee's amendment as a substitute for the original bill. This motion also was defeated by an affimative vote of 34, against a negative vote of 59 (page 1007, A. J.). Then came the vote on the original bill and assemblyman Ray of La Crosse moved that it be indefinitely postponed, which motion was carried, yeas 67, nays 25, paired 4, absent or not voting 4, Following is the report of the roll call (page 1008, A. J.):

Yeas—Messrs. Arneman, Barker, Bartzen, Becker, Benson (the democratic member of the committee on railroads), Bradford, Breitwisch, Cady, Carpenter, Coffland, Cosgrove, Cowling, Crowley, Dinsdale, Dixon, Donald, Dudgeon, E. W. Evans, Finnegan, Fridd, Fritzke, Haderer, Hamm, Hannifin, Hartung, Hassa, Hodgins, F. Johnson, Thomas Johnson, Johnston, Karel, Kehrein, Kern, La Due, Lang, Lane, Le Roy, Loebs, Lord, Martin, Miller, Moldenhauer, Morgan, Morris, Osborn, Peterson, Rakow, Ray, Reed, Reynolds, Rupp, Sidler, Slade, A. E. Smith, O H. Smith, Terens, Thiessenhusen, Thoreson, Thompson, Timlin, Valentine, Waterman, Westfahl, White, Whitson, Williams and Willott—67.

Nays—Messrs. Ainsworth, Andrew, Bartlett, Braddock, Chandler, Dahl, Doolittle, Douglas, Ekern, Evans D. Jr., Frear, Gilman, Irvine, Johnson (Henry), Kimball, Koch, Potter, Rankl, Root, Smalley, Smelker, Stevens, Tarrell, Verbeck and Mr. Speaker—25.

Paired—Mr. Carberry for indefinite postponement, Mr. Strong against; Mr. Walrich for; Mr. Beedle against—4.

Absent or not voting—Messrs. Brittan, Kinney, Price, and Szymarek—4.

This closed the first battle and left an issue with which Gov. La Follette could go into the next campaign, of which he availed himself. It will be noticed that of the eleven committeemen who reported the bill, eight favored it when it came up for final disposal, two voted against it, and one Assemblyman Kinney, did not vote. The two who opposed it were Messrs. Benson and Reed; those who favored it were Messrs. Ainsworth, Braddock, Beedle, Frear, Gilman, Irvine, Stevens, and Tarrell.

CHAPTER IX.

The Beginning of the End.

Following the adjournment of the legislature on May 23, Gov. La Follette made preparation for beginning the next campaign immediately. Since the first election of Gov. La Follette Wisconsin citizens have had no occasion to complain of apathy on the part of politicians. There have been no "off years" in this state politically, for a perpetual campaign has been in progress except during the summer and autumn of 1901 when the governor was too ill to engage in work of that kind. While he remained in the state he kept the pot boiling. Before he transferred his person and activities to Washington and gave his summers to the lecture platform he succeeded in securing the enactment of the primary election law. As a result of that law the office seeker is always busy.

As has been said, the governor prepared to begin his next campaign immediately after the adjournment of the legislature in May, 1903. He rearranged the figures he had used in his two messages in order to give them local application and took the stump in the fall. He went from town to town, from county fair to county fair, and on each occasion he demonstrated mathematically that the people of the particular city or county in which he was speaking were being robbed by the railroads. He showed how the state was paying millions of tribute to the greedy corporations and explained that the only way of abolishing the alleged evil of which he complained was to adopt the Iowa distance tariff system.

All the figures he had used in his argument had been refuted. The figures he quoted, prepared by his official statistician for the purposes and uses to which he was putting them, had been shown to be inaccurate and misleading—that they were, in fact, of no value; that the comparison he was drawing between the state that had honored him by elevating him to the highest position in the gift of the people and other states were false and calculated to work injury to his own state. He ignored all the proofs that had been presented showing his figures unreliable.

As a counter movement the conservatives undertook to secure the publication, in the state press, of facts and figures that would refute the arguments of the governor, and prove that his rate quotations were misleading. In all sections of the state the newspapers printed the published rates actually charged for carrying freight from the local points to market, or to distributing centers, and compared them with the distance tariffs of Iowa for like distances. It was shown that in almost every instance the Wisconsin rates were lower than those of Iowa and Illinois.

But he was renominated at the gymnasium convention at Madison and re-elected in November, 1904. In order to secure his elec-

tion he promised the farmers of the state that he would reduce their living expenses by reducing the freight charges they were forced to pay on everything they consumed and on everything they produced if they would give him another term in the office of governor. He even figured how much he would save per capita to the people of the state by his distance tariff system of rates. Each head of a family was to be benefited to the extent of about $39 annually by the proposed change. And there were many who believed him competent to work the miracle promised.

When the legislature met in the winter of 1905 Gov. La Follette renewed his fight for the adoption of the Iowa distance tariff, but he was not in as favorable a position to carry his point as he had been two years before. In 1903 he had a legislative committee on railroads that would carry out his program to the letter. In 1905 the matter was taken up by the senate committee, a body that was disposed to do some investigating and thinking on its own account. Senator W. H. Hatton, an administration man, was chairman of the committee and he had as associates Senators Frear, Munson, Hudnall, Beach, Wipperman, Johnson, Morris, and Merton.

The assembly committee on railroads was made up, as its predecessor had been, of men who would do as the governor ordered. They were Messrs. Braddock, chairman; Stevens, Irvine, Thayer, Winch, Powell, Oltman, McKenzie, Metzler, and Fred Peterson.

As a starting point, "something to chew on," a bill was introduced in both houses early in the session, on Feb. 10, No. 268S, and No. 444A. These bills met the governor's approval as they were merely copies of the Texas law. Gov. La Follette already had announced that something of the kind must be enacted into law. In his usual dogmatic way he said that the whole controversy had been settled at the polls. To quote from his message:

> "If any question can be definitely settled by the people of a state, the people of Wisconsin have settled the question that railway service and railway rates shall be controlled by a railway commission, in so far as the same are subject to state control under the constitution. The issue was presented for their consideration in terms that could not be misunderstood or misrepresented. Throughout a protracted campaign it claimed paramount attention. Its discussion was strongly demanded by the voters of every section of the state, to the subordination of all other questions, even those pertaining to national government. In so far, then, as it is possible in a democracy, we assemble this time, under instructions of those who sent us here to execute their commands."

The only limit he set on the discretion of the legislature in framing the proposed law was the one laid down by the constitution. He even spoke regretfully of the repeal of the historic Potter law in 1876, for he refered to that law as a "breaking away of Wisconsin from railroad control."

The assembly appeared to take the tentative bills introduced

on Feb. 10 seriously, as it made a few amendments, suggested by the committee that originally introduced it, and passed it on April 18 by a vote of 75 to 12, there being thirteen absentees. The members who voted against the measure were Assemblymen Barker, Brooks, Everett, Hansen, Frank Johnson, Miller, Norcross, Page, Racek, Ramsey, Reynolds, and Szymarek. The seventy-five "Bobites" thought they were doing right, probably, but they were counting on men in the senate who were too wise to follow their lead. The senate nonconcurred in the action of the assembly on bill No. 444A on May 25, Senator Hatton making the motion.

CHAPTER X.

THE RAILWAY COMMISSION LAW ENACTED.

The real work of perfecting the Wisconsin railway commission law was performed by the senate committee on railroads with what outside assistance they could call to their aid. Senator Hatton, chairman of the committee took the lead in the work, and the law was given his name, but he was merely the leader, not the author of the measure, which was the result of the labors of many men.

Of the members of the committee Senators Otis Johnson and Z. P. Beach were conservatives. Senators Herman Wipperman and George B. Hudnall were at the time "near half breeds," but the former had been disciplined in 1903 for alleged gross and unbecoming independence of opinion, and the latter was already drifting away from the straight and narrow path of implicit faith in and absolute obedience to the governor. They were therefore, no longer to be relied upon to follow out the personal La Follette program. Senators Frear, Munson, and Morris were administration men, and Senator Merton was a democrat who was something of a reformer on his own account. It must be said, however, that Senator Merton acted with a majority of the committee in their efforts to frame a workable statute, and that he supported the measure finally drawn, although ill health made it impossible for him to be present when the final vote was taken.

Of Senator Hatton's position there can be no reasonable doubt. Although he always had been and still was an administration supporter, the chairman of the committee did not at any time believe in the doctrine preached by Gov. La Follette on the railway rate question. How he managed to avoid being drummed out of the camp is a mystery, but that he did succeed in retaining his place in the councils of the governor while pursuing a course that was, in fact, if not openly and contumaciously, in antagonism to La Follette's wishes and purposes is a fact of history that can not successfully be disputed. The governor considered the question settled. He made that announcement in his biennial message. His understanding of the situation was that the people of Wisconsin wanted something like the Iowa and Texas laws—a composite of the two would satisfy him.

But Senator Hatton was of a different opinion. In a subsequent interview he explained that when he first took up the consideration of the question of railroad regulation he made it a point to talk to every man from whom he believed he could gather information of value, and he also consulted published works on both sides of the subjects. He read the laws of other states, digested them, and finally came to the conclusion that none of them were entirely satisfactory to him as they were not based on correct principles. His

main objection to the laws then in force was that they all gave to the commissions the power to make and promulgate rates. He believed, he said, that the three things that should be sought in framing a measure of the kind under consideration were "adequate service, reasonable rates, and no unjust discrimination." It will be noticed that these were the principles for which the conservatives were contending.

In arriving at this conclusion Senator Hatton stated that he was aided by professors of the state university, by large shippers, and by other members of the legislature who had given the subject intelligent study. Members of the committee with whom he consulted daily also contributed valuable ideas on the subject.

The first bill introduced, he explained in the interview, was merely a "dummy," designed to occupy the attention of the rank and file of the legislators while the committee was working out the problem. The first committee substitute was little better than the original "dummy," as it was merely a modification of the Texas law which had first been introduced. All the time the committee had in its possession the bill that finally appeared on the calendar as committee substitute No. 2.

Meanwhile, Senator A. L. Kreutzer and Senator W. C. North had introduced substitute bills which were decided improvements on the committee bill. Senator Kreutzer's measure was the result of exhaustive investigations, in which he was aided by the best legal talent at his home city, Wausau, as well as large shippers who, by years of experience in dealing with the transportation companies, had formed opinions concerning the existing laws and believed they knew where they should be strengthened. Senator North's bill was what had come to be known as "the stalwart bill." In its construction had been put the best thought and work of lawyers, shippers, and railroad traffic men, all of whom had technical knowledge of the business to be regulated and were in a position to speak with authority on the subject.

All of these measures were referred to the committee, and, with the several bills before them, the members of that body were in a position to take the best features from each and construct a good measure. And this is precisely what they did. One of the hardest workers on the committee was Senator Otis Johnson, the unwavering "stalwart," and Senator Beach was equally determined to arrive at a sound conclusion. Either would have preferred the regular stalwart bill, but both knew the other members of the committee would never consent to report a measure emanating from that source, and they contented themselves with attempting to introduce as many of the conservative provisions into the committee bill as possible.

During the last days of conference of the committee they even called to their aid Burton Hansen, general solicitor of the Chicago,

Milwaukee and St. Paul railroad company. Each afternoon and evening for weeks Mr. Hanson met and labored with the committee to perfect the measure that was to be presented to the senate as the final, finished work of that body. The result was a good, wholesome measure, one that could have been improved in some respects, it is true, but for all that a bill that could be described as sane, safe, and calculated to accomplish the purposes for which it was designed. There were several criticisms of the bill made by conservatives when it was finally presented and these were made matters of record, but the objections were not fatal.

The first senate committee "dummy" bill was introduced Feb. 10 (Senate Journal, page 285). The Kreutzer bill was introduced March 2 (S. J., page 404). The second committee bill came in on May 5 (S. J., page 974), and the North bill followed on May 8 (S. J., page 977). Finnally the second committee substitute, the one that had been in progress of incubation all winter was introduced on May 16 by the chairman, Senator Hatton.

The same day that the bill appeared from the committee room into the bright light of the senate chamber two amendments were offered, one by Senator Stevens and the other by Senator Rummel. Both amendments were designed to change the method of making up the commission, as they provided for an elective rather than an appointive body. On motion of Senator Hatton the bills and amendments were rereferred to the committee (S. J., page 1068).

On the same day, at the evening session, the committee again reported the bill without change and recommended its passage (S. J., page 1070), and it was made a special order for 10 o'clock on May 18.

When it came up under special order the forenoon session was consumed in consideration of the bill and in the disposal of a number of proposed minor amendments and final action was postponed until the afternoon session.

It was at this session that Senator Whitehead presented the eleven conservative amendments, all designed to strengthen, rather than weaken, the measure and which were all voted down by the majority. The vote on these amendments varied from 5 against 26 to 10 against 21, the smaller number being the affirmative conservative vote in each case. In no case did the conservative members of the committee support the proposed amendments, as the committee remained unanimous for the bill during the entire session. The highest number to vote for an amendment was on the first of the eleven amendments offered by Senator Whitehead. They were Senators Hagemeister, Kreutzer, North, Randolph, Rogers, Roehr, Smith, Whitehead, Wolff and Wright. On amendment No. 5 the only members voting affirmatively were Senators North, Smith, Whitehead, Wolff and Wright.

At the evening session on the same day the bill was put on its

passage and received the unanimous vote of the senate, thirty-one senators voting yea. Senator Merton, a member of the committee who had aided in framing the bill, was prevented by illness from attending the session, but he had previously inserted in the record an announcement that he favored the measure and, were he able to be present, would have voted for its passage. There was one vacancy, Senator Barney Eaton having retired from that body.

This ended the contest over the railroad rate regulation issue. When the bill came up in the assembly the members of that body, having learned of the fate of their own measure, surrendered to circumstances and concurred. The governor attached his signature and the Wisconsin railroad commission law was written into the statutes of the state.

CHAPTER XI.

THE COMMISSION AND ITS DUTIES.

Chapter 362, laws of 1905, establishing the Wisconsin railroad commission, provided for the appointment by the governor of three members of such commission, the appointments to be confirmed by the senate. From the beginning there had been more or less opposition to the creation of an appointive commission, the fear being freely expressed that Gov. La Follette—who had in the meantime been elected to the United States senate in place of Senator Joseph V. Quarles, and who had been holding back his acceptance of the office until he could clear his desk of important matters demanding his attention—would avail himself of the opportunity to appoint men to the new positions whose main qualifications in his eyes would be disqualifications in the opinions of the objectors.

A political commission was not desired by any large number of citizens and many of the men who had consistently supported the governor during his entire service in that position so far as their judgment would permit were unalterably opposed to such a body. Stalwart members and administration men like Senators Stout, Hatton, Hudnall, Wipperman, Bird, and others insisted that only such men be appointed to places on the commission as were qualified by character, mental endowments and training for the duties that would be required of them.

While the bill was still pending before the legislature and after it had been enacted into law, several names of probable or possible appointees were mentioned that were not favorably received by a majority of the senate. As there is no disposition to establish a "black list" as a part of this review it is unnecessary to enumerate the names of those who were supposed at the time to be favored by Gov. La Follette for advancement to the new positions and who were not satisfactory to the senate. It is even impossible to prove that Gov. La Follette ever personally suggested any of the objectionable names, but when the suggestions came to the members of the senate whose support would be required before confirmation could be assured, they had all the appearance of "feelers."

Finally three names appeared among the suggestions that were entirely satisfactory to all members of the senate and Gov. La Follette sent them in. They were immediately confirmed and the first commission was ready for work with John Barnes of Rhinelander —now a member of the Supreme court of the state—B. H. Meyer, professor of political economy of the University of Wisconsin, and Halford Erickson, state commissioner of labor and industrial statistics, as members. Mr. Barnes was a democrat, his two associates being republicans. None of these appointments could be said to be

political with the possible exception of that of Mr. Erickson, and he had served in the official family of the governor since the latter had assumed office in 1901. But Mr. Erickson was a skilled statistician, had given months to the study of railroad rates, and it was believed his experience would serve as a justification for his appointment.

Since the organization of the Wisconsin railroad commission the jurisdiction of that body has been enlarged and the scope of its operations greatly increased by a number of acts. The session of the legislature in 1907, facetiously termed "the long parliament" by some, enacted a number of statutes by which practically all the quasi-public corporations were placed under the supervision of the commission, and assigning to the commission new duties. It is unnecessary here to do little more than enumerate some of these acts, as a brief general explanation of the purposes of each will serve.

The most important measure approved by that legislature was the one since known as the "public utilities law," chapter 499, laws of 1907. This measure placed under the jurisdiction of the commission all companies furnishing to the public water, gas, electricity, heat and telephone service. It subjected these companies to control similar to that exercised by the commission over railroads. Other laws enacted during the same session may be enumerated as follows:

Chapter 576, laws of 1907, provides that no railroad or other public service corporation shall issue stocks or bonds without first applying to, and receiving from, the commission authority to do so.

Chapter 454, laws of 1907, provides that no railroad company shall begin the construction of a new line or an extension without first securing from the commission a certificate of necessity and convenience. This law is designed to protect railroads already in the field, or in course of construction, from unjust and unnecessary competition.

Chapter 575, laws of 1907, provides for an eight hour day for railway telegraph operators, and makes it unlawful for any company to require or permit its operators to work more than eight consecutive hours, a period of sixteen hours intervening between the shifts. This was, and is an unnecessary and harmful law.

Chapter 247, laws of 1907, designed to enable cities of the first-class (Milwaukee) to acquire, own and operate railway terminals, and to lease such terminals to railroads desiring to use them. In this instance the commission is to come in as arbitrator should the city and railroad company fail to agree as to the terms of the lease.

Chapter 614, laws of 1907, requires railroads to furnish rea-

sonably adequate telephonic communication with its offices, buildings, and grounds.

Chapter 352, laws of 1907, requires the railroads of the state to provide reasonably adequate spur tracks to manufacturing establishments when imperatively necessary for the operation of such enterprises or industries.

Chapter 578, laws of 1907, provides for an indeterminate street railway franchise in cities.

Chapter 291, laws of 1907, regulates the stringing of electric wires over railroad tracks.

Chapter 335, laws of 1907, authorizes the Wisconsin River Improvement company to construct and maintain a system of water reservoirs on the tributaries of the Wisconsin river, and to lease water power and to receive therefor a net revenue not to exceed 6 per cent, the tolls to be fixed semi-annually by the commission. The company can issue no stocks or bonds without the approval of the commission, which must ascertain before the approval that the issue is to be at par, and in consideration of cash, labor or property at its true money value actually received by the company.

Chapter 654, laws of 1907, is the "2 cent passenger fare law." It should be explained that this law was enacted in the face of an opinion formally delivered by the Wisconsin railway commission to the effect that a reduction from 3 to 2 cents per mile for passenger fares was not justified by conditions. The commission explained its position at length and suggested that a reduction to 2 1-2 cents would be fair and reasonable in the circumstances.

Members of the legislature thought otherwise and organized to push the 2 cent fare bill through under the leadership of Gov. J. O. Davidson and Lieut. Gov. W. D. Connor. It is probable that the bill would have been defeated had not the lieutenant governor labored strenuously for its passage. As it was it was once indefinitely postponed in the senate and was only saved by Senator James A. Wright, who moved a reconsideration at the psychological moment, carried his point, and secured favorable action on the bill by the senate. It is a matter of record that all of the "Bobites" in both houses opposed the measure while the Davidson-Connor men supported and passed it.

The published reports of the Wisconsin railroad commission indicate that that body has been busy since it was created, as may well be judged from the number and variety of its duties under the numerous statutes. It has employed a large force of assistants, experts and others, and has made an honest effort to render efficient and valuable services to the state.

The commission has not attempted to make sweeping reductions in freight rates. It has heard complaints whenever they were presented and ordered hearings in cases that could not be adjusted without formal proceedings. No citizen who has had a just cause

of complaint has been dismissed without a full and fair consideration of his case. Not only have complaints against the railroads and other quasi-public corporations been submitted to and determined by the commission, but the public utility companies themselves frequently have appealed to that body for the privilege of changing their schedules of charges for services rendered.

The reason the commission did not cut and slash freight rates as many people were led to believe they would do, was because they found the system already established admirably adapted to the needs of traffic. The system of commodity and zone rates in force was not an arbitrary creation of the railroad traffic men. Shippers and carriers had co-operated in perfecting that system, their mutual experience and the requirements of commerce being determining factors in their negotiations. While it is true these rates at times were discriminatory with respect to places, such discriminations as were practiced are imperatively necessary to the growth of industries and the development of natural resources. Wisconsin can not claim to have a perfect system of freight rates, but the glaring inequalities and iniquitous extortions pictured by Gov. La Follette in 1903 and 1904 proved to be myths. They simply had no existence in reality.

It is a significant fact that Halford Erickson, the man who prepared many of the tables used by Gov. La Follette in his public addresses and his messages to the legislature (see governors' message, Assembly Journal, 1903, page 50, second paragraph) is now and has been from the first a member of the Wisconsin railroad commission. Had it been true that Wisconsin producers were paying from 15 to 70 per cent more for freight carrying than the producers of Iowa (governor's message, 1903, A. J., page 50) is it reasonable to suppose the shippers would not be aware of the fact and that they would not complain to the commission, of which Halford Erickson, the governor's statistician, is a member? Is it reasonable to suppose, further, that Mr. Erickson himself, knowing of the statements made by the governor in his messages, would not have taken steps to have the necessary complaints filed had those statements been based on facts? Gov. La Follette alleged that the average freight rates in Wisconsin were "a fraction less than 40 per cent higher" than Iowa rates (Assembly Journal, 1903, page 50). Rates have not been materially lowered since that time because the statements made by the governor were untrue in substance and in detail and no sweeping reductions were demanded or justified by conditions. It is true that some reductions have been made from time to time to meet the requirements of traffic. That, however, always has been the practice. Since the first railroad was built in this country the tendency of freight rates has been downward.

Wisconsin is a marvelously prosperous state with diversified

industries and it was a prosperous state when Gov. La Follette was working to revolutionize the freight rate system. This "broad and pulsing movement of energy," as W. D. Hoard described the industrial situation in 1903, remains unchanged. The freight rate system remains unchanged, also, except that the carriers as a rule deal with the people through a railroad commission. Fortunately that commission has been wise enough, has had sufficient common sense and economic learning, to refrain from overturning or attempting to overturn a system that was a growth, a development, the outcome of years of negotiation, adjustment, and a due consideration of mutual interests and the laws of commerce.

But this is not what was promised to the people of Wisconsin by Gov. La Follette when he was conducting his "progressive" campaign. It is well that it is so. Had he succeeded in carrying out his program the "broad and pulsing movement of energy" would have been dealt a blow from which it would not soon have recovered.

CHAPTER XII.

Railway Regulation in General.

As has been shown, Wisconsin has passed through a period of agitation which culminated in an attempt to take the entire management of the business of railroad corporations out of the hands of the officers elected by the stockholders. The attempt failed. The plan that was adopted as a substitute for the one proposed has much to recommend it, albeit it has the disadvantage of shifting the responsibility for freight rates and railroad service from the railroad companies to the commission. Under the old system each shipper dealt directly with the officers of the carrier. When he had a complaint to make concerning either the service furnished or the rates charged, he went directly to the company and presented his arguments.

Under the new system the state to a large extent has been substituted for the carrier and negotiations for rate adjustments, for adequate service, and the establishment of new rates for the purpose of encouraging development of natural resources, however extensive, are conducted through the commission. Under the old system all business was transacted between the two parties interested; under the present system a third party intervenes. The carrier must now satisfy the commission; the shipper must go to the commission when he is dissatisfied. Formerly the carriers had thousands of individual shippers to deal with and they assumed full and complete responsibility for every rate, every service, and every act of every employe. Now much if not all of that responsibility is transferred to the shoulders of the commission.

This is the policy that has been adopted in nearly all of the states of the union and by the congress of the United States. It is the result of agitation and an attempt to cure abuses that needed treatment. Railroad corporations and their methods of dealing with the public have been more widely discussed and more severely criticised than any other industry or class of property, particularly within the last ten years. The searchlight has been turned upon every detail of their business. Nothing has escaped the eyes of the investigators and the dusty records of the past have been uncovered and publicly discussed. Some criticisms were justified by the conditions disclosed. Practices which no business man would excuse—which no man ever attempted to excuse or paliate—were brought to light. Secret rates, rebates, and unjust discriminations were alleged in some cases and proved beyond question, and steps were taken promptly to find a remedy and apply it—frequently to the lasting satisfaction and profit of the parties most severely criticised, the railroad corporations.

This period of agitation has opened the door to the class of

public men who keep their ears to the ground and govern their actions by what they hear. These are the statesmen who ride upon the crest of the wave of public opinion. They feel the public pulse and in their zeal to outbid each other for popularity they seize upon every opening for criticism, every opportunity to foster prejudice and passion, every device by which obstacles to their own personal advancement may be torn down and removed from their path.

It is to this element that the people of the nation owe much of the intemperate, destructive criticism of railroad corporations that has characterized the last decade. It is a serious matter when any industry or business that depends wholly upon the public favor for its life loses the confidence of the public, and this is peculiarly true of the railroads, because no other form of property is so easily reached by legislatures. The fact that the railroads have withstood the attack without demoralization is a splendid indorsement of their stability. It is doubtful whether any other industry, not excepting the banks and other financial institutions of the country, strong as they are, could have lived through the storm of criticism to which the railroads have been subjected.

It is to be regretted that public men and that portion of the press that assumes the responsibility of shaping public opinion upon great questions affecting the public weal do not always treat important subjects fairly. Political expediency receives too much consideration at times for the public good. It is not merely a question of how unwise laws may affect a corporation and its stockholders. It goes further than that. The people, the men who ship the freight, the producers and consumers, are equally interested. Production fails of its purpose if the goods are not delivered to the consumer. We shall not succeed industrially unless the entire machinery of production and distribution work harmoniously. Transportation must adjust itself to the needs of traffic or the traffic will not move. Unwise legislation affecting our transportation lines may destroy our commerce just as effectively and completely as privateering upon the high seas. It is important, therefore, that the people of this country learn caution in dealing with intricate matters of business while providing for the protection of their own interests.

To some extent at least the railroad companies are themselves responsible for the mistrust that political agitators have been able to create against them. They have not made it a practice to take the people into their confidence as much as they should have done. When they were attacked the rank and file of the citizenry knew but little about the railroad business. The economic principles which should, and to a large extent do, govern railroad rate making were entirely unknown to a substantial majority of the voters. The railroad companies looked "big rich" and were

constantly suspected of making too much money, more than they had a right to make.

Here in Wisconsin Gov. La Follette attacked the railroads with the general statement that their rates were all too high. It was a simple statement, one that could be readily grasped and mastered, and it had the advantage of precise alignment with a too prevalent popular prejudice. When he backed his statement with a few skillfully prepared tables of comparative rates, many people believed he had revealed to them a systematic and colossal robbery of which they were the innocent victims. It required only five words to say, "Their rates are too high," and it placed the burden of proof on the accused corporations. When the defendants undertook to explain and justify the thousands of rates in effect at the time in this state it required volumes, and much of the matter contained in the answer was not easily understood by men unfamiliar with transportation matters. The people had not been educated in the elements of rate making and the time given to convince them that the governors' figures were misleading was all too short. If the railroad companies had previously given greater publicity to their business methods the impeachment filed against them in 1904 would not have deceived so many citizens. But, late as their defense was begun, it was sufficient to save Wisconsin from some of the mistakes made by several less conservative states.

There is still another phase of the anti-railroad agitation that deserves mention here. The statement that secret rebates were being paid, or had been paid, to favored shippers was urged by political speakers and the anti-railroad press as a stock argument in favor of the creation of a commission armed with the rate making power, when in fact this feature of the problem of railroad rate regulation had no legitimate place in the discussion. To make a rate is one thing; to maintain it is another. When the government steps in to take charge of rate making it must deal with all the intricate questions that affect traffic. When it forbids secret rebating it merely enacts a statute making it a crime for carriers to accept less than the published tariff rates. No commission is required to enforce that law. Grand juries and the courts may be relied upon to see that the law is respected. The fact is that commissions have been of very little service in enforcing the maintenance of rates. Nor was the law applying to this branch of the government's work of regulation materially strengthened by any statute enacted since the passage of the Elkins act of 1903. Practically all the railroad prosecutions during the Roosevelt administration, about which so much has been said and written, were based on the Elkins act.

It can not truthfully be denied that, during the period of agitation that appears now to be subsiding, the public mind was thoroughly aroused. Public opinion was based upon an immense

amount of misinformation like that doled out to the people of Wisconsin in 1903 and 1904, and it is not surprising that there was a strong sentiment in favor of radical changes among the masses of the people who did not have direct business relations with the transportation companies. In their response to what was, let it be hoped, a temporary sentiment, legislators in many instances have gone too far for the public good. It was right to correct whatever evils existed in the transportation system; it was right to prevent by law combinations against the best interests of the people; it was right to do away with personal discriminations. The railways are the highways of commerce and should be open upon like terms to all doing business under like conditions. The railroad rate schedule should be an open book. Every shipper has a right to know what his neighbor or competitor is paying. But to put the rate making power absolutely in the hands of commissions created by law and close the door of the railway offices to the public was unnecessary and unwise.

Every shipper knows that freight rates must adjust themselves to ever changing business conditions. The response to a demand for readjustment to fit new conditions must be prompt, more prompt than is possible in dealing with a governmental bureau bound in red tape. However, right or wrong, the new scheme, which in its present form is nothing more nor less than the product of political agitation, has been put in operation. Practically all the states in the union have created railroad commissions clothed with unlimited authority and armed with plenary power over the carriers, and the interstate commerce commission has complete control over interstate traffic.

Under the new system the responsibility for the successful operation of the railway lines and the development of new traffic no longer rests upon the shoulders of the officers elected by the stockholders. By placing the rate making power in the hands of governmental commissions that responsibility has been shifted to the government itself. The shipper and the stockholder must rely upon the same legally constituted authority, one for relief from excessive charges and the other for dividends upon his stock. It will require a wise—supernaturally wise—government to satisfy either.

The new system, also, will prove a disappointment to the people who are indirectly responsible for its adoption, because it is not responsive to the needs of commerce and because it will not produce what was expected of it—a lower level of rates. Some states have caused a deal of trouble for the railroads without accomplishing any corresponding benefit to the public. The interstate commerce commission, as now constituted, will not be able to supervise interstate rates successfully because the task is too big for it. Partial supervision, like everything that is only half done, will

not produce satisfactory results, and it is now a physical impossibility for the federal commission to even half do the work of supervision assigned to it by congress.

If the government is determined to persist in the policy of exercising the authority over common carriers to the extent of fixing freight rates, rules and regulations which can not be changed except by the same authority, justice to the public in whose behalf the power is invoked demands that legislative bodies, particularly congress, shall establish a system of control that shall be so adequate and flexible as to be promptly responsive to the needs of commerce while giving due regard to the rights and interests of the carriers.

But the governments, state and national, will experience some difficulty in providing a bureau competent to do this work as it should be done. The railroads of the country employ approximately 10,000 men in their traffic departments and these men do not work under an eight hour system. Included in this number are vice presidents, traffic managers, general freight and passenger agents and their assistants, and traveling agents. These men are paid salaries and they are expected to earn the money they receive. They are on the ground, at the place where the business is transacted, and they are in touch with the patrons of the roads who furnish the tonnage that keeps the trains moving. They are at all times intimately and personally acquainted with the business, its needs, its possibilities of betterment, and they are expected to know and do know what must be done to develop new business along their lines.

The interstate commerce commission as it is today organized, is made up of seven men, all finite beings with limited capacity, both physically and intellectually. They alone have a right to hear a complaint, make an order affecting a rate, and to legalize every rate promulgated. To be effective and useful to the people, it is necessary for them to have in their possession all the information regarding traffic possessed by a railroad force of 10,000 men. As government bureaus are run in Washington, how many rate makers would be required adequately to do the traffic business for all the roads in the country?

The federal government and many of the states have undertaken too much or done too little. They have gone too far or not far enough. They have given to governmental bodies the rate making power and they have not created the machinery to adequately perform for the roads the service which they have undertaken. There is reason to doubt the ability of the government to create and organize such a bureau, and, in the event of such failure, the door should once more be opened wide for negotiations between the carriers and their patrons with the responsibility for adequate

service and reasonable rates placed where it rightfully belongs—upon the shoulders of the transportation officers.

In doing this no opening should be left for a return to practices that are, by common consent, unjust, oppressive, and destructive of legitimate competition in their tendency. Rebates, secret rates, and unjust personal discriminations should be strictly prohibited and, when practiced in defiance of law, should be visited with severe punishment. When this is done the requirements of commerce are met. Until we shall determine to change our form of government, if that time ever comes, the more freedom we give for the natural laws of trade to operate in their own way the better it will be for the country. Business cannot thrive under unnecessary and burdensome regulation. Industries conducted by men of highly developed business instincts and thorough business training find it difficult to succeed when surrounded and hedged in by unnatural, arbitrary restrictions. The small manufacturer and dealer of mediocre mental equipment is uniformly smothered by them.

CHAPTER XIII.

An Ebb Tide of Settlement.

There is every reason to believe the public will, in time, tire of the extravagant agitation on the subject of railroad regulation that has characterized recent years and men will then no longer be elected to public office upon the simple statement that they are opposed to the railroads. This subject will be taken up by the legislatures of the country with a view to solving the problem and settling all disputed points in a fair, reasonable, and effective manner. The public deserves to be, and must be, protected. It is entitled to good service at reasonable rates. From the viewpoint of the public the public benefit is of first importance; the stockholder believes the returns on capital invested is of the greatest moment. The problem is to reconcile public and private rights without unduly subordinating the one to the other.

A railroad has a right to charge a rate that will produce enough to pay its expenses and a fair return upon the value of its property. The bond and stock holders who furnish the money to build the road can not by any rule of justice be deprived of a fair return on their capital. A rate that is reasonable will produce in the aggregate a fair return upon the investment. Economically, a railroad should not charge more; legally, it can not be required to charge less. The difficulty is in determining just how the expenses of operation, renewal, and income shall be distributed.

The railroad officers, left to themselves, by giving close attention to the requirements of the traffic originating on their respective lines, have been able to bring about an adjustment of rates which meet the requirements of traffic and at the same time produce sufficient revenue to maintain their properties, and, in many cases, pay dividends to the investors. They accomplished this because they had the power of making such charges for their services as each commodity would bear. Discriminations between persons was not a necessary factor in this distribution of charges. Discriminations between places, however, was an absolute necessity, and it is at this point that the government will fail. Under the law there can ultimately be no discrimination between places. Every shipping point will demand that it be accorded every advantage of geographical location. There is only one form of tariff which a government can establish and maintain and be a just government, and that is a distance tariff. That such a system would overturn our industrial and commercial organizations must be conceded.

It is a consideration of these facts that will result in a change of sentiment on the part of the general public and they are even now causing fair minded public men who have no interest but

the public weal at heart to hesitate about following the radical leaders to the extreme of their demands upon the government for railroad regulation. The citizens who make up that great mass of voters called the "plain people" are beginning to learn that they can not always rely upon the unsupported word of agitators who want office. The fine frenzy with which the office seeking reformer expounds his belief in the total and inexcusable depravity of prominent men engaged in private business and as officers of large industrial enterprises, while at the same time his own impeccable purity is implied, does not carry so much weight as formerly. Blind leaders of the blind never were popular, and once the blindness of the leader is established, his occupation is gone for all time.

But, even though public sentiment on the subject of unnecessarily drastic and obstructive railway regulation is destined to change, is already changing in fact, there is still need of educative work on the part of clear sighted, right minded citizens, for the political agitator, the disturber of the public peace, is always in the field. When one subject of controversy that permits of the peculiar methods of treatment most dearly loved by the extremist becomes worn out he turns with cheerful alacrity to another that will serve his ends. Wisconsin has passed through a succession of spasms of this character. It started with the primary election, then shifted to taxation, and wound up with railroad regulation. Each was used in its turn to convince the people that designing men had trampled upon their liberties, robbed them of their substance, and retarded the development of their state.

Wisconsin citizens now know, or ought to know, how much truth there was in all the lurid campaign literature and still more fiery campaign oratory indulged in by the self-appointed reformers of the last decade, but there is always danger of a new reform issue becoming popular. In this connection the word "reform" is used to designate all political movements that are mainly sound and contain scarcely enough sense to serve as a flavor. The word has been given this meaning by men who seek political advancement, not because of their recognized ability, not in return for distinguished public services, not because they love the people with the consuming passion they simulate, but merely that they may enjoy the honors and emoluments incidental to public office.

These are the men who preach the doctrine of suspicion and hate. Confidence inspires confidence; distrust breeds distrust. The one leads to fair dealing; the other to wars of extermination. If politics could be entirely divorced from business it might be well for the agitators to monopolize that field entirely and hurl the javelins of mimic rage at each other indefinitely; but, unfortunately, the state and national governments have shown a disposition of late to do more than merely exercise a supervisory power over the industrial activities of the country. Thus it has come

about that governmental policies mean something more than the protection of the citizen's life and property and the maintenance of the public peace. They mean a direct, positive, and it may be, an unwarranted and uncalled for interference with the business relations of every citizen with his neighbor. Under these conditions it is not safe to surrender the political field entirely to the self-seeking men of political war who shed language instead of blood in defense of their alleged opinions and only succeed in poisoning the public mind. Even when they succeed they fall, for they are never able to redeem their promises.

It is not intended here to convey the idea that it is better to meekly submit to wrongs than to take up arms against them. Where the wrongs are real they should be met with telling protests. When a man has an opinion that is worth defending it is his duty to defend it in the strongest possible manner. But violence is not a proof of strength and personal abuse is invariably a demonstration of weakness; either weakness in the man who is guilty of using such a weapon or in the cause he represents.

If our form of government shall endure it will not be through the aid and counsel of men whose sole aim it is to stir up factional strife, to array one section of the country or one class of citizens against another. The social democrats are right when they say their success depends upon the awakening of "class consciousness," and every public man or private citizen who lends his assistance to such an awakening is contributing to the cause of socialism, it matters not whether that man be a laborer, a millionaire, or a reform agitator. A war to the finish between social classes spells socialism in the end, and socialism spells the enslavement of the people to the government and the establishment of the most oppressive form of bureaucracy.

CHAPTER XIV.

THE OPPOSING SPIRITS.

The passion for regulating everything and everybody is born of the old, unlovely spirit of intolerance against which the Christian church has been preaching for more than 1900 years and of which it has too frequently furnished striking examples. In all that time, and in all the history of the world before the beginning of the Christian era, it is impossible to find one case where the spirit of intolerance in active operation has not led to wrong, misery, oppression, and, in too many cases, to wars and revolutions. It has overthrown governments. It has dragged martyrs to the stake, uncrowned kings, sent popes into exile, severed friendships, broken up homes, driven high minded, able men from public life, and marked its progress through the ages with blood and tears.

This is not an attractive picture, but it has the merit of being true to life. But there is another, a brighter side to human nature, without which there would be no hope for the race. Whether men acknowledge openly their belief in and veneration for the Golden Rule, or profess to sneer at and flippantly misquote it, there is deep down in the heart of every civilized man a knowledge of the fact that it embodies the most profound philosophy ever uttered by human lips, divinely inspired.

The Golden Rule and the spirit of intolerance are at opposite poles; there is nothing in common between them. One leads to peace, the other to strife and discord. For this reason the former is the more practical of the two. From the beginning of time, while intolerance has been brewing poisons and sharpening swords, brotherly love has been binding up wounds and wiping away tears. While intolerance has been sending man against man in the death grapple, brotherly love has been bridging gulfs and bringing men together in peace and accord. Of all systems of philosophy the Golden Rule is the most practical and the best calculated for use as a law of conduct in the business and political worlds.

Let those who doubt the soundness of this position think for themselves what would happen if a new and rational reform in this respect were to be adopted and put into operation by business men and politicians. There would still be principles of government over which parties would contend. There would be competition in the business world. But there would be no more bitter personal antagonisms. Men who differed in opinion would not charge each other with deliberate dishonesty. They would support their opinions with argument, not personal abuse. They would not seek to profit by engendering social unrest and class hatred. In the business world the rule of toleration would be equally profitable—as a matter of fact there is more honesty, fair

dealing and decency among business and professional men today than nursers of grouches could be made to believe.

The belief in and advocacy of world wide toleration will be branded by many as an impractical ideal, a dream, but the man who believes in and strives to the best of his ability to live up to that ideal is facing in the right direction. What right has a man who refuses to subscribe to the doctrine of toleration to call himself a "progressive?" The man who is inspired by the spirit of intolerance, who preaches the doctrine of distrust, suspicion, enmity, hate, has turned his back upon progress and is facing the dark ages before the birth of civilization.

Nothing here is designed to counsel weakness, surrender to wrong, or a namby pamby sentimentalism that lacks the backbone to stand up for rights. Man may be strong and honest at the same time. He may put himself and keep himself beyond the reach of just criticism, where he will have little use for the "short and ugly word" without the sacrifice of one jot of that virile manhood which all the world admires. He may express opinions, openly and fearlessly, and support them by argument without branding those who differ with him as fools or knaves. He may do anything and everything that an honest, fearless, just man can do under our present democratic form of government. The only thing he loses is that which no man is willing to acknowledge he possesses—the spirit of intolerance, the right to hate his neighbor, the right to think and speak evil of all who refuse to accept his judgment as final.

During all the time the railway rate regulation subject was before the legislature of Wisconsin there was one man, not a politician, whose services were of inestimable value to the people of this state. He was not a member of the legislature; he held no commission from the people to protect their interests; he had no political ambition, it never having occurred to him to seek official advancement. He was, in fact, an officer of one of the large railroad corporations.

That man is Burton Hanson, general solicitor for the Chicago, Milwaukee and St. Paul railroad, and he appeared before the legislature as a representative of that corporation. During practically the entire season of 1903, and again in 1905, Mr. Hanson remained in Madison and aided by his knowledge of the law and of the railroad business, first, in defeating the attempt to engraft upon our system of laws the arbitrary, illogical railway regulation statutes of Iowa and Texas; and second, in framing a law that has been pronounced by many practical men the best railroad regulation law in the country.

The two main causes that contributed to the defeat of the bill presented to the legislature in 1903 as the administration measure for the regulation of railroads were the address delivered by Mr. Hanson before the legislative committee on railroads and the

meeting of business men and shippers held in Madison to protest against the enactment of such a radical law. In his address Mr. Hanson answered completely the arguments advanced by Gov. La Follette in support of the bill, and he also demonstrated the inaccuracy and worthlessness of the figures contained in the governor's tables, which were advanced as a reason for the passage of the bill. That address was a model of forceful, but temperate, argument, a clear statement of facts and figures, and a convincing comparison of the conditions then obtaining in Wisconsin and neighboring states with respect to railway transportation. This address, together with the almost daily advice and counsel given to members of the legislature and others who were contending against the destruction of Wisconsin's commercial and industrial systems, contributed more to the defeat of the bill than any other one cause.

In 1905 Mr. Hanson again appeared in Madison as the representative of the Milwaukee road and again he rendered valuable services in the cause of the people. He not only aided in the defeat of the radical assembly bill, but he assisted in framing the measure that finally was enacted into law. Had he been disposed to play politics, to engage in sharp practices, he would have contented himself with assuming an attitude of opposition. He would have permitted a statute to be enacted that would have been vulnerable, one he could have taken to the courts and killed there. But when it was suggested that he adopt this course he replied that his advice had been asked and it was his duty to give to the legislative committee and individual members of the legislature the full benefit of his knowledge of the subject under consideration.

No man in the middle west was better equipped to render valuable assistance to the committee than was Burton Hanson. A man of profound legal knowledge, a specialist in transportation matters, a clear headed, logical thinker, and a calm, dispassionate student of industrial conditions and needs, Mr. Hanson was preeminently the man for the occasion. For weeks and months he counseled with members of the committee individually, and, finally, he met with the committee as a body daily, and, section by section, he went over the proposed law with them and suggested improvements, amendments, additions and eliminations. The result was a law that could not be attacked in the courts with any hope of success, a statute, too, that has been commended by economists, traffic men and shippers in all parts of the country.

And all this was accomplished without the aid of red fire or band music. In his quiet, gentlemanly, sincere, unostentatious manner Mr. Hanson went about the performance of his duties, or what he considered his duties, without fuss or feather, and he did unto others as he would have others do unto him. His ripe judgment, the result of years of experience in transportation matters, his exceptional mental attainments, his knowledge of the principles

of law, all were placed at the disposal of the committee without reservation of any character.

Burton Hanson is entitled to the gratitude of the people of Wisconsin for the part he played in the events that led up to the enactment of the Wisconsin railroad commission law, and in saying this no thought of detracting from the credit due to others is entertained. The members of the committee are to be thanked for the broad minded policy they adopted when they called in this railroad attorney to aid them in the work committed to them. The attorneys and traffic men for the other roads and experienced shippers gave able assistance. But the high minded, unselfish conception of duty which animated Mr. Hanson is an inspiration to others placed in similar positions that should be kept before the eyes and in the minds of the people.

CHAPTER XV.

IN CONCLUSION.

It has been part of the system adopted by an element of aspiring politicians in this state in recent years, whenever a man advocates reason in dealing with corporations and especially railroads, to point to him as a subservient creature of wealth and an enemy of the common people. They act upon the theory that it is easy to convince a majority of the voters that the people and the corporations can have no interests in common. Whenever a public man or a prominent private citizen advocates a course that is practical and wise, but not in harmony with what they regard as their political necessities, he is promptly charged with fostering selfish interests and placed in the so-called favored class. This is done to destroy his influence with the mass of the voters. Wisconsin's recent political history is full of examples of prominent men who have been maligned and slandered because they had convictions that were in opposition to the "reform" propaganda, and had the courage to state them.

How much longer this system can be worked successfully is problematical. The answer must come from the people. We shall not expect it until they have learned that the leadership of extremists is unwise, unsafe, and in the end will be harmful to them. The people will do well to study the motives of politicians as well as the measures which they advocate, because if they are not deceived in the former they will be less apt to be deceived by the latter.

Professional politicians make it their business to have new issues to dangle before the eyes of the people at every election. It serves the double purpose of directing public attention to them and diverting attention from those issues that have been worn threadbare or have proven unprofitable and disappointing to the people when put into operation. A statesman is a leader. A politician is a follower. A statesman educates public sentiment. A politician trims his sails to catch every breeze. A statesman studies the principles of government and bases his official acts on his knowledge of those principles. A politician studies the temper of his constituents and adjusts his course to popular clamor. A statesman aims to be right. A politician strives to be popular.

"The great difference between the real statesman and the pretender is, that the one sees into the future, while the other regards only the present; the one lives by the day, and acts on expediency; the other acts on enduring principles and for immortality."—*Burke.*

This review has dealt with three important questions. Each has occupied the political stage in its time and each has been represented to the people as a matter of momentous importance to

them. In 1902 the primary election law was presented to the voters and the finger of scorn was pointed at every man who had the courage to oppose it. It is now an acknowledged failure. Tax reform followed. Every man who dared to raise his voice against the demonstrably unwise schemes advocated by the professional reformers was promptly and without ceremony represented to the people as a tax dodger or a tool of corporations. The subject was carried to a point where there were no more political dividends in further agitating it and it was then dropped. The result is we have doubled the income of the state but we have not given any relief to the overburdened taxpayer. The property that carried the heaviest load of taxes before the agitation is in most cases paying more than it ever did before. The railroad rate question has been fully discussed in this review and requires no further comment. The unprejudiced reader will hardly be able to avoid the conclusion that after all there is a wide difference between honest reform for the improvement of government and the reforms invented to promote political interests.